



CRP. No.3782 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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1.B.kamatchi Balakrishnan
2.B.Rajasekaran
3.B.Kumar
4.Jayanthi Mohan Chander
5.Brinda Srinivasalu
6.B.Ravishankar
7. Devasana Dhamodaran

...Petitioners

Vs.

1.B.Jayashankar

...Respondent.

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 11.02.2019 in I.A No. 178 of 2018 in O.S NO. 4840 of 2017 on the file of the XVII Additional City Civil Judge at Chennai, and allow the Civil Revision Petition.

For Petitioners
For Respondent

: No appearance
: Mr.R.Raman Laal



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ORDER

This Civil Revision petition has been filed to set aside the fair and decreetal order dated 11.02.2019 in I.A No. 178 of 2018 in O.S NO. 4840 of 2017 on the file of the XVII Additional City Civil Judge at Chennai.

2. The brief facts of the case is that the suit in O.S NO. 4840 of 2017 has been filed by the respondent herein/plaintiff for the relief of partition with respect to three schedule mentioned properties, in which, the plaintiff/respondent herein claimed 1/7 share. Thereafter, the petitioner herein filed written statement on 19.02.2018, from which, the plaintiffs/respondnet came to know that first item of the suit scheduled property was settled in favour of the defendants through settlement deed dated 01.04.2013 and it was served to the plaintiff on 12.03.2018. Thereafter, the plaintiff filed I. A No. 178 of 2018 in the said suit praying to amend the plaint by including prayer 'd', para 10 of the plaint for the consequential prayer and para 19 of plaint and to include the Court fee for the prayer 'd'. Considering the submissions on either side the Trial Court allowed the IA No.178 of 2018 in O.S No. 4840 of 2017.



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3.Challenging the same the present Civil Revision Petition has been filed by the defendants.

4. There is no representation on the side of the petitioner.

5. The learned counsel for the respondent submitted that he filed application in I.A No. 178 of 2018 in O.S No. 4840 of 2017 to amend the plaint by including prayer 'd', para 10 of the plaint for the consequential prayer and para 19 of plaint, and to include the Court fee for the prayer 'd' and the same was rightly allowed by the Trial Court which needs no interference. He prays to dismiss this petition.

6. On perusal of records, it reveals that the plaintiffs/respondent herein came to know that first item of the suit scheduled property was settled in favour of the defendants through settlement deed dated 01.04.2013 through the written statement of the defendants filed on 19.02.2018. Thereafter, he filed the above said I.A to amend the plaint by including prayer 'd', para 10 of the plaint for the consequential prayer and para 19 of plaint, and to include the Court fee for the prayer 'd' and the said application was allowed against which the present Civil Revision Petition filed. This Court is of the view that to prove his claim it is necessary for the plaintiff to amend the plaint then he has to



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prove the said settlement deed as null and void. Hence, this Court does not find any reason to interfere with the order passed by the Trial Court in I.A No. 178 of 2018 in O.S No. 4840 of 2017. Further, the Trial Court is directed to dispose the suit as early as possible

7. In the result, this Civil Revision Petition is disposed of. No costs.

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To

1. The XVII Additional City Civil Judge, Chennai.



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T.V.THAMILSELVI,J.

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