



C.R.P.No.3891 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3891 of 2022

and

C.M.P.No.20385 of 2022

Palani (Deceased)

1.Vanjikodi

2.Sivagami

3.Sundarajan

4.Vanitha

5.Hemalathi

... Petitioners

Vs.

1.Neelavathi

2.Malliga

3.Kalavathi

4.Vijay

5.Sanjay

6.Vidhya

7.Lakshmi

8.Rajavelu

9.Loganayaki

10.Dhanasekaran

11.Thiyagarajan

12.Dakshnamoorthi

13.Suganthi



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14.Praveen

15.Prabhu

16.Vijaya

17.Mageshwari

18.Kasthuri

19.Sathishkumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the fair order and decretal order dated 16.09.2022 passed in I.A.No.5 of 2022 in O.S.No.200 of 2019 on the file of the I Additional District Judge, Thiruvallur District.

For Petitioners : M/s.A.Prabhakaran

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner/plaintiff seeking leave of the Court to withdraw the suit with liberty to file a fresh suit on the same cause of action.

2. The petitioner herein filed a suit for partition and also for a declaration that sale deed pertinent to the suit property and also for a declaration of sale deed dated 17.12.2007 executed by defendants 16 and 17 in favour of 19th defendant is null and void and for other relief.



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3. The petitioner herein filed I.A.No.5 of 2022 seeking leave of the Court to withdraw the suit with liberty to file a fresh suit on same cause of action. In the affidavit filed in support of the petition, it has been stated by the petitioner that 19th defendant has purchased the suit property from defendants 16 and 18 who have no right over the suit property. It was further averred that 19th defendant sold the property to one Jothi pending suit and the said fact came to the knowledge of petitioner only on 05.07.2022. Therefore, the petitioner wanted to withdraw the suit with liberty to file comprehensive suit for impleading the subsequent purchaser. For the purpose of impleading subsequent purchaser the petitioner/plaintiff need not withdraw the suit and file a fresh suit. It is always open to him, if so advised to implead the subsequent purchaser in the present suit and proceed with the suit. The Court below is justified in refusing the prayer made by the revision petitioner seeking leave of this Court to withdraw the suit with a liberty to file a fresh suit on same cause of action. I do not find any error in the order passed by the Court below. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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S.SOUNTHAR, J.

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4. After dismissal of the Civil Revision Petition the learned counsel for the petitioner made a request to this Court to issue a direction to the Court below to dispose of the suit at the earliest. Having regard to the fact that the suit is of the year 2019 and the relief sought for is for partition, this Court is inclined to issue a direction to the Court below to dispose of the suit within a period of nine (9) months from the date of receipt of copy of this order.

29.11.2022

Index: Yes/ No
Speaking Order / Non-Speaking Order
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To

1. The I Additional District Judge,
Thiruvallur District.

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