



WEB COPY

C.R.P.No.4095 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4095 of 2022 and
C.M.P.No.21268 of 2022

R.Ganesan

.. Petitioner

VS

T.Ranjitham

.. Respondent

Prayer: Petition filed under Article 227 of the Constitution of India praying to set aside the fair order passed in I.A.No.1 of 2019 in O.S.No.331 of 2015 dated on 18.11.2022 on the file of the II Additional District Judge at Salem.

For Petitioner

: Mr.G.Munuraj

ORDER

The fair order dated 18.11.2022 passed in I.A.No.1 of 2019 in O.S.No.331 of 2015 is under challenge in the present revision petition.



2. The respondent instituted a suit in O.S.No.331 of 2015 for partition. It is not in dispute that the revision petitioner and the respondent are sister and brother. After institution of the suit, the revision petitioner / defendant filed an Interlocutory Application for rejection of the plaint under Order VII Rule 11(a) of the Code of Civil Procedure. The Trial Court adjudicated the issues and formed an opinion that the plaint could not be rejected merely on the submissions of the defendant that the suit properties are orally allotted to the parties.

3. The learned counsel appearing for the revision petitioner reiterated that there was a mediation and an amicable settlement occurred between the parties prior to the institution of the suit and the suit properties were orally allotted to the respondent herein during the settlement and therefore, the suit is not maintainable and therefore, the Interlocutory Application filed by the defendant ought to have been allowed by the Trial Court.

4. A plaint could not be rejected based on such oral mediation or settlement. It is not in dispute that there is no partition deed registered



between the parties and the revision petitioner states that there was a mediation between the parties and the properties were orally settled. Even in such circumstances, whether there is an oral understanding, the parties are entitled to dispute the same if there is any issue involved in the oral mediation. Based on such oral mediation, the suit for objection could not be rejected.

5. All such oral mediations are otherwise to be established with acceptable evidences at the time of full fledged trial. Contrarily, the plaint could not be merely rejected based on such contentions of either of the parties. Thus, the Trial Court has rightly formed an opinion that the rejection of the plaint is not entertainable since there is no acceptable ground for the purpose of considering the relief sought for in the Interlocutory Application filed by the defendant.

6. This Court do not find any perversity in respect of the findings made by the Trial Court and the parties are at liberty to establish their respective cases through documents and evidences at the time of Trial. Accordingly, the Civil Revision Petition stands dismissed. There will be no



order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes
Speaking order
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To

1. II Additional District Judge, Salem.



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S.M.SUBRAMANIAM, J.

(drm)

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