



C.R.P. No. 2945 of 2018

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T.V.THAMILSELVI, J.

This matter was taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the petitioners.

2. Originally, the plaintiffs filed a suit for partition. During the pendency of the suit, they came to know that some of the property belongs to the family was already sold and to include those properties, they filed application in I.A.No. 747 of 2016 under Order 6 Rule 17 of C.P.C. praying to amend the pleadings as well as schedule of property. On hearing both sides, the trial judge dismissed the application. Challenging the said order, the revision petitioners preferred this Civil Revision Petition.

3. During the pendency of C.R.P. proceedings, the plaintiffs were advised to file a fresh suit on same cause of action. To that effect, learned counsel for Revision Petitioners made an endorsement to withdraw the Civil Revision Petition without mentioning liberty to file a



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fresh suit on same cause of action. Accordingly, this Court passed an order dated 31.10.2022 dismissing the above Civil Revision Petition as withdrawn. Hence, the matter is listed today.

4. Today, when the matter taken up for hearing, the learned counsel for petitioner appeared and his arguments heard.

5. Considering the facts and circumstances and on hearing the reasons assigned by the learned counsel for Revision Petitioners seems to be justifiable one, they are permitted to file a fresh suit on the same cause of action. Accordingly, the paragraph-2 of the order is clarified and the same shall be substituted as follows:

In Para 2 at Page 3

“2. In view of the endorsement made by the learned counsel for petitioner, this Civil Revision Petition is dismissed as withdrawn. However, liberty is granted to the Revision Petitioners to file a fresh suit on same cause of action. No cos. Consequently, connected Civil Miscellaneous Petitions are closed.”



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6. Registry is directed to incorporate above correction in the Order of this Court in C.R.P.No.2945 of 2018 dated 27.10.2022 and issue fresh order copy to the petitioner.

30.11.2022

rpp



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rpp

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WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM:

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

CRP. No.2945 of 2018
& CMP 14890 of 2021 , 17243 of 2018

1.Palanisamy (L.R of R2)
2.Thulasiammal (L.R of R2)

...Petitioners

Vs.

1.Appichi Gounder
2.Pavayal (died)
(Petitioner 1 & 2 Lrs of the deceased R2 vix Pavayal as per the memo dated 25.10.2021 and vide cont order dated 25.10.2021 made in CRP 2945/20128 (V MVJ))
3.Kandasamy (died)
4.Palanisamy
5.P.K.Muthukumar
6.P.Sangeetha
7.R.Srinivasan
8.K.Thangaraj
9.Maheshkumar
10.K.Ravathi
11.Kannamal

(R9 to R11 brought on record as lrs of the deceased R3 viz Kandasamy vide Court order dated 07/10/2021 made in cmp 25/08/2021 Crp No. 2945 of 2018 (VMVJ)

....Respondents



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PRAYER: This Civil Revision Petition is filed under Section 115 of CPC prayed to set aside fair and decretal order dated 23.06.2017 made in I.A No.747 of 2016 in O.S No. 310 of 2010 on the file of the learned District Munsif Cum Judicial Magistrate, Perundurai by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Ramkumar

For R1, R2, R3 : Died

For R4 : Addressee cannot be located

For R5 : Mr.N.Chinnaraj

For R6, R9,R10,

R11 : Not appeared

For R7 & R8 : Mr.Mukunth

ORDER

The learned counsel for the petitioners sought the permission of this Court to withdraw the petition and also made an endorsement to that effect.

2. In view of the endorsement made, the petition in CRP No.2945 of 2018 is dismissed as withdrawn. Consequentially connected Miscellaneous petitions are closed. No costs.

27.10.2022

Pbl



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To
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1. The District Munsif Cum Judicial Magistrate, Perundurai.



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T.V.THAMILSELVI,J.

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CRP. No.2945 of 2018
& CMP 14890 of 2021 , 17243 of 2018

27.10.2022