



C.R.P PD(MD)No.1943 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.P(MD)No.1943 of 2022 and
CMP(MD) No.8864 of 2022

V.Pandi

... Petitioner

Vs

1.Lavanya Kumari
2.Kathiravan
3.Shanmugam
4.Vishnupriya
5.Krishnaveni
6.Janaki
7.The Sub Registrar,
Sub Registrar Office,
Pavoorchatram.

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.08.2022 passed in I.A.No.4 of 2022 in O.S.No.10 of 2016, on the file of the Principal Subordinate Court, Tenkasi.

For Petitioner	: Mr.D.Nallathambi
For Respondents	: Mr.P.T.Thiraviyam Government Advocate



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ORDER

This Civil Revision Petition is filed as against the fair and decretal order dated 03.08.2022 passed in I.A.No.4 of 2022 in O.S.No. 10 of 2016, on the file of the Principal Subordinate Court, Tenkasi.

2.The suit in O.S.No.10 of 2016 was filed by the respondents 1 & 2 herein, before the Principal Subordinate Court, Tenkasi, for the relief of partition, declaration and for permanent injunction. Pending the suit, the petitioner/fifth defendant filed the above Interlocutory Application in I.A.No.4 of 2022 in O.S.No.10 of 2016, under Order VII Rule 11(a) and Section 151 of Civil Procedure Code to reject the suit that the suit is collusive one, which was filed among the relatives. The said application was dismissed by the trial Court that the plea raised by the petitioner herein can be decided by way of trial only. Aggrieved over the same, the petitioner is before this Court with the present revision petition.



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3.The learned counsel appearing for the petitioner submits that except this petitioner all the defendants in the suit are close relatives and the suit has been filed as collusive in nature and therefore, the above suit is liable to be struck off and the order of the trial Court has to be set aside.

4.This Court considered the submission of the learned counsel for the petitioner and also perused the materials placed on record.

5.It is seen from the records that the suit is filed in the year 2016. The petitioner/5th defendant also entered appearance and filed his written statement. It appears that the suit is ripened for trial. At that stage, the petitioner herein/5th defendant filed the above interlocutory application raising a plea that the suit is collusive in nature and it has to be struck off. The trial Court has held that the plea raised by the



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petitioner that the suit is collusive in nature can be decided by way of conducting a full-fledged trial and rightly dismissed the application.

6.In view of the above, this Court finds no error in the order passed by the trial Court and this Civil Revision Petition is dismissed. However, considering the fact that the suit is of the year 2016, there shall be a direction to the trial Court to dispose of the suit as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. The petitioner is at liberty to raise all his grounds before the trial Court. No costs. Consequently, connected Miscellaneous Petition is closed.

29.09.2022

Index : Yes / No.

Internet : Yes / No.

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To

The Principal Subordinate Court, Tenkasi.

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B.PUGALENDHI, J.

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