



CRP(MD)No.2412 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 07.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.2412 of 2022
and
C.M.P(MD).No.11667 of 2022

1.R.Banumathi
2.A.Ramalingam

: Petitioners/Defendants

Vs.,

T.Rajeswari

: Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the record and set aside the order dated 19.10.2022 made in I.A.No.163 of 2022 in O.S.No.79 of 2018 on the file of the II Additional District cum Sessions Court, Thanjavur.

For Petitioner : Mr.B.Jameel Arasu

ORDER

This revision petition has been filed against the order passed by the learned II Additional District-cum-Sessions Judge, Thanjavur in I.A.No.163 of 2022 in O.S.No.79 of 2018, dated 19.10.2022.



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2.The petitioners herein are the defendants 1 and 2 in O.S.No.79 of 2018 filed by the respondent/plaintiff seeking for partition. Pending the suit, the petitioners have filed an interlocutory application in I.A.No.163 of 2022 alleging that certain joint family properties are not added in the suit filed for partition. They have also mentioned four items of properties. The trial Court by its fair and decreetal order dated 19.10.2022 dismissed the said application stating that those properties were exclusively purchased by the plaintiff by way of registered sale deeds. Aggrieved over the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioners submits that the petitioners are not insisting for other three items of properties, they are concerned about the property in S.No.96/6E, which is an ancestral property. However, the trial Court, without considering the right of these petitioners/defendants in the ancestral property, has erroneously dismissed the said application.

4.This Court considered the submission made by the learned counsel and perused the materials placed on record.



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5. With regard to the property in S.No.96/6E as referred by the learned counsel for the petitioners, the trial Court has assigned the reason that the property was purchased by the plaintiff's husband namely, Thangarasu Nattar from one Krishnasamykatcharaiyar and one Rathnavelkacharaiyar, who are the first petitioner's father and paternal uncle, by way of a registered sale deed in the year 1986. Therefore, this Court is not inclined to entertain this petition.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. However, since the petitioners are still having grievance that the property in S.No.96/6E is an ancestral property, which has been wrongly sold by the first petitioner's father and his paternal uncle, it is always open to them to file a necessary suit for cancelling the document in the manner known to law. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
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B.PUGALENDHI, J.

Rmk

To

The II Additional District cum Sessions Judge, Thanjavur.

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