



C.R.P.No.2826 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2826 of 2009
and M.P.No.1 of 2009

Ramakrishnan

.. Petitioner

Vs.

Srinivasan

.. Respondent

Prayer:- Civil Revision Petition filed under Section 115 CPC to set aside the Fair and Decreetal order G.O.P.23 of 2007 dated 29.06.2009 on the file of the Principal District Judge, Villupuram and thereby allow the revision.

For Petitioner : Mr.N.Suresh

For Respondent : No appearance
Notice served

ORDER

This Civil Revision Petition has been filed as against the Fair and Decreetal order G.O.P.23 of 2007 dated 29.06.2009 on the file of the Principal District Judge, Villupuram, thereby allowed the petition seeking permission to sell the subject property.

2. The petitioner is the respondent in the petition filed by the



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respondent herein. The petitioner and the respondent are brothers. They have also got four other brothers. Their father died on 19.10.1997. The petition mentioned property originally belong to their father and part of the property from the larger extent. Their father had executed a registered Will dated 14.11.1994 and the same was also a registered one. As per the Will, the property in 'A' Schedule i.e, rice mill premises, drying yard, compound wall, 75 Hp motor, service, boiler, modern Rice Mill materials etc, should be enjoyed by 6 sons for their life time and thereafter, the property should go to all the legal heirs of his sons, both male and female. Therefore, all the sons have no right to alienate the property comprised in 'A' schedule property during their lifetime. That apart, the recital is very clear that if the sons could not enjoy the property peacefully and jointly during their life time, they are not entitled to sell the property. If the sons wanted to sell the property, the same should be offered between the legal heirs of the sons on the basis of the prevailing market value.

3. While being so, the respondent filed an application seeking



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permission to sell the property, in order to provide education to his minor sons. The petitioner filed a counter stating that after the demise of their father, there was a family arrangement on 25.11.2000. Accordingly, the petition mentioned property was allotted in favour of the respondent herein. While being so, the respondent intended to sell the said property. Therefore, he sought permission before the Court. The petitioner offered to purchase the said land for the prevailing market price. However, his plea was not considered by the Court below and permitted the respondent to sell the property in favour of the agreement holder. The petitioner intended to purchase the same, since the adjacent property was also in his favour and he is enjoying the said adjacent property. Therefore, the Court below ought not to have permitted the respondent to sell the property to a third person.

4. In view of the above, the order passed by the Court below cannot be sustained and it is liable to be set aside. Accordingly, the Fair and Decreetal order G.O.P.23 of 2007 dated 29.06.2009 on the file of the Principal District Judge, Villupuram, is hereby set aside. The respondent is permitted to sell the petition premises in favour of the petitioner for the



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prevailing market price.

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5. In the result, this Civil Revision Petition is allowed.

Consequently, connected Miscellaneous petition is closed. No costs.

27.01.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

mn

G.K.ILANTHIRAIYAN,J.



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To

The Principal District Judge, Villupuram.

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