



C.R.P.No.1328 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM

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

C.R.P.No.1328 of 2019
and C.M.P.Nos.8716 & 19151 of 2019

Bhuvaneswari

... Petitioner

Vs.

1. V.Thilagavathy
2. R.Maragatham
V.L.V.Sornam (Died)
3. V.Thiurgarajan
V.Udayakumar (Died)
4. V.Jayanthi
5. Kalaimagal @ Priya

... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 02.03.2019 made in unnumbered E.A.(CFR No.1592/2019) of 2018 in E.P.No.44 of 2017 on the file of the 3rd Additional District Court, Dharapuram.

For Petitioner : Mr. N.S.Siva Kumar

For Respondents

For R1 : Mr.B.Thirumalai

For M/s.Raj Kishore Associates

For R2 : Mr.V.S.Kesavan

For R4 : Mr.P.T.Ramadevi

For R3 & R5 : No appearance

ORDER



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The Civil Revision Petition has been filed as against the docket order dated 02.03.2019 made by the learned III Additional District Judge, Dharapuram, in unnumbered E.A.(CFR No.1592/2019) of 2018 in E.P.No.44 of 2017, thereby rejecting the petition filed under Section 47 of C.P.C.

2. The petitioner is the second defendant in the suit in O.S.No.21 of 2007 filed by the respondents 1 & 2 herein for partition. The suit was decreed and preliminary decree was passed. On the strength of the preliminary decree, final decree also passed. After passing preliminary decree, one V.L.V.Sornam died and she executed a Will in favour of the petitioner herein, who is the second defendant in the suit, in respect of her share. However without considering the same, final decree was passed as such aggrieved by the same the petitioner filed appeal suit and the same is pending before this Court.

3. In the mean while, the first respondent herein filed execution



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petition in E.P.No.44 of 2017 to execute the decree dated 18.12.2007. In the said execution petition, the petitioner herein filed an application under Section 47 of C.P.C., and the same was rejected by the execution Court on the ground that already appeal suit was filed as against the final decree and the same is pending before this Court.

4. Considering the facts and circumstances, the application under Section 47 of C.P.C., is not necessary and the Court below rightly rejected the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

5. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

02.02.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
rts



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G.K.ILANTHIRAIYAN, J.

rts

To

1. The III Additional District Judge,
Dharapuram.

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