



C.R.P.Nos.836 and 837 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2023

CORAM

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

C.R.P.Nos.836 and 837 of 2016
and C.M.P.No.4645 of 2016

1. Mani
2. Pavathal

.. Petitioners **in both C.R.Ps**

Vs.

1. Padmavathi
2. Nandhini
3. Loganayaki
M.Subbu (died)
4. S.K.Sadasivam
5. S.Poosappan
6. P.M.Natarajan
7. Pavathal
8. Rajeswari
9. Pappathi

.. Respondents **in both C.R.Ps**

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal orders dated 15.07.2015 made in I.A.No.389 of 2014 in O.S.No.54 of 2006 and in I.A.No.390 of 2014 in O.S.No.54 of 2006 on the file of the learned First Additional Sub Judge (Full Charge for the Second Additional Sub Court), Erode by allowing these Civil Revision Petition.



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In both C.R.Ps

For Petitioners : Mr.N.Manokaran

For Respondents

For R1 and R6 : Notice served

For R7 and R8 : Died (Steps due)

For R9 : Notice served

COMMON ORDER

These Civil Revision Petitions have been filed as against the fair and decreetal orders dated 15.07.2015 made in I.A.No.389 of 2014 in O.S.No.54 of 2006 and in I.A.No.390 of 2014 in O.S.No.54 of 2006 on the file of the learned First Additional Sub Judge (Full Charge for the Second Additional Sub Court), Erode, thereby dismissing the petitions to reopen the suit in O.S.No.54 of 2006 and to set aside the exparte decree passed in O.S.No.54 of 2006.

2. The petitioners are the defendants 1 and 2 in the suit filed by the respondents 1 to 3 herein in O.S.No.54 of 2006, for partition. Pending suit, the petitioners also filed a suit for declaration declaring that the sale deed dated 03.05.2000 executed by them in favour of the respondents 1 to 3 as null and void. Both the suits are pending before the same Trial Court. Therefore, a transfer petition was filed in Tr.O.P.No.36 of 2007 in which by an order dated 30.10.2007, the Principal District



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Court, Erode, directed the Trial Court to conduct joint Trial in both the suits. Therefore, the petitioners were under the impression that both the suits were clubbed together and ripe for trial. However, the Court below, without noticing the transfer order passed by the Principal District Court, Erode and without clubbing both the suits together, decreed the suit filed by the respondents 1 to 3 herein in O.S.No.54 of 2006 which was filed for partition. Immediately, after coming to know about the exparte decree, the petitioners filed a petition to set aside the exparte decree and also to reopen their evidence. However, it was dismissed on the ground of delay.

3. Though, notice was served on respondents and their name has been printed, no one appeared on behalf of the respondents in person or through pleader.

4. In view of the above, this Court is inclined to set aside the orders passed by the Trial Court. Accordingly, the fair and decreetal orders dated 15.07.2015 made in I.A.No.389 of 2014 in O.S.No.54 of 2006 and in I.A.No.390 of 2014 in O.S.No.54 of 2006 on the file of the



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learned First Additional Sub Judge (Full Charge for the Second Additional Sub Court), Erode, are hereby set aside. The Trial Court is directed to conduct joint Trial in both the suits as directed in Tr.O.P.No.36 of 2007 by the Principal District Court, Erode, within a period of six months from the date of receipt of a copy of this order.

5. Accordingly, these Civil Revision Petitions are allowed. Consequently, connected Miscellaneous petition is closed. No costs.

27.02.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

1. The Principal District Judge, Erode.
2. The First Additional Sub Judge (Full Charge for the Second Additional Sub Court), Erode.

G.K.ILANTHIRAIYAN,J.



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