



CRP.No.1503 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.1503 of 2023

1.Shoba
2.Gunavathi
3.Kavitha

... Petitioners

Vs.

1.Manjunatha
2.Srinivasan
3.Srikantha
4.Chinnaswamy
5.N.Pratheep

... Respondents

PRAYER: Civil Revision Petition filed Under Article 227 of Constitution of India, against the order dated 08.03.2023 passed in Un-Numbered OS in S.R.No.1065 of 2023 on the file of the Principal Subordinate Judge, Hosur and seeking direction to the Principal Subordinate Judge, Hosur to number the O.S.Sr.No.1065 of 2023 within the time to be stipulated by this Hon'ble Court.



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For Petitioners : Mr.R.Bharath Kumar
For R 1 : Notice sent service awaited
For R2 to R5 : Mr.I.Abrar Md.Abdullah

ORDER

The petitioners have filed this revision petition to set aside the order dated 08.03.2023 passed in Un-Numbered OS in S.R.No.1065 of 2023 on the file of the Principal Subordinate Judge, Hosur and seeking direction to the Principal Subordinate Judge, Hosur to number the O.S.Sr.No.1065 of 2023

2. Before the trial Court the petitioners have filed a suit in O.S.Sr.No.1065 of 2023, for the relief of partition and to declare the sale deed as null and void and for permanent injunction. This suit was returned for maintainability, since the suit property was alienated before the year of 2005 and for the payment of Court Fee under Section 40(A) Court Fee Act and other defects. The plaintiffs who are the sisters of the 1st defendant were filed a suit against the 1st defendant and the purchasers/D2 to D5 of the property. The said suit was rejected by the learned trial Judge stating that the suit properties were alienated before the year of 2005, therefore as per



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the dictum in the judgment of Hon'ble Supreme Court in Vineetha Sharma

Case, reported in 2020(9) SCC held that the female co parceners are entitled

share in their ancestral properties from the year 2005 as their birth right.

The plaintiffs are not entitled any share in the suit properties, which was

alienated in the year 2000. In this case the suit property alienated by the

male co parceners in the year 2000 itself, thereby, the plaintiffs are not

entitled share in the suit property. More over, Court fee paid by the plaintiff

also not sufficient. The findings given by the learned trial Judge under Order

VII Rule 11 of CPC reject the plaint has not been acceptable therefore each

case is to decided on merits by its pleadings and circumstances. Kindly

opportunity should be given to the plaintiff to prove their right and title over

the property. Moreover payment of Court fee can be decided at any stage of

proceedings.

3. Hence, the findings given by the learned trial Judge is set aside and directed to number of the case within a period of two weeks from the date of receipt of a copy of this order.



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T.V.THAMILSELVI, J.

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4. Registry is directed to return the original plaint to the counsel.

5. In view of the above, this Civil Revision Petition is disposed of. No costs.

20.10.2023

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation: Yes/No

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To

1.The Principal Subordinate Judge, Hosur.

2.The Section Officer,

VR-Section, High Court of Madras.

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