



C.R.P.(PD)No.1828 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.1828 of 2019
and CMP.No.12039 of 2019

P.V.Balasubramaniam

.. Petitioner

VS

P.V.Shanmuga sundaram (Died)

1.S.Amaravathi

V.Bakkiam (Died)

2.P.V.Ramalingam

3.P.V.Thirunavukarasu

4.S.Rajathi

5.S.Savithiri

6.R.Vijaya Chakravarthy

7.R.Raja @ Palanisamy

8.R.Seeni @ Srinivasan

9.T.Jagadeesan

10.T.Kameswaran

11.The Sub Registrar Ammapet,
having office at Ramasundaram Street,
Near Singameth, Salem-1.

12.Santha

13.Kalaivani

14.Minor. Yogesh

.. Respondents



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Petition filed under Article 227 of the Constitution of India against the Fair and Decretal order dated 2.11.2018 in I.A.No.223 of 2017 in O.S.No.406 of 2010 on the file of the II Additional Subordinate Judge, Salem.

For Petitioner : Mr.K.Selvaraj

For Respondents : M/s.J.Prithivi (for R1)

Mr.B.Tamil Nidhi (for R11)
Additional Government Pleader (CS)

Mr.S.Jegan (for R2 to R7, R9 & R12)

No Appearance (for R8, R10, R11, R13
& R14)

ORDER

The ground on which the petitioner seeks for rejection of plaint is that previously there had been a partition between the members of the family and therefore, a second suit for partition does not lie.

2.Mr.K.Selvaraj, learned counsel appearing for the petitioner strenuously argues this point to state that as the properties were already partitioned and subsequently alienated in favour of the third parties, this second suit for partition is not maintainable.

3. Whether a partition had previously taken place or not is a matter in issue which can be gone into only after evidence. It cannot be



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gone into at the initial stage, especially when reading of the plaint discloses a cause of action. Therefore, the order of the trial Court in dismissing the application under Order 7 Rule 11 of the CPC is confirmed and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

27.07.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The II Additional Subordinate Judge,
Salem.



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V. LAKSHMINARAYANAN,J.

VS

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