



CRP.No.2543 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.2543 of 2019 and
CMP.No.16780 of 2019

1.Vanitha
2.Santhi
3.Lalitha

... petitioners

Vs.

1.Madavan
2.Selvi
3.P.Premakumari
4.R.Raja
5.Radha
6.Abaroobam
7.Mani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the civil revision petition and to set aside the fair order and decree dated 04.12.2018 made in IA.No.240 of 2018 in OS.No.2 of 2014 on the file of the learned III Additional District Court, Vellore at Tirupattur.

For Petitioners : Mr.P.Vasanth

For Respondents

For R1 to 6 : Mr.B.Manivannan

For R7 : died(steps due)

ORDER



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This civil revision petition has been filed to set aside the fair order and decree dated 04.12.2018 made in IA.No.240 of 2018 in OS.No.2 of 2014 on the file of the learned III Additional District Court, Vellore at Tirupattur, thereby dismissed the petition seeking amendment of plaint.

2. Heard, the learned counsel for the petitioners and the learned counsel for respondents 1 to 6.

3. The petitioners and the seventh respondent are the plaintiffs. The respondents 1 to 6 are the defendants. The suit was filed for partition in respect of the suit schedule property. The petitioners and the first defendant are sisters and brother. The petitioners also challenged the settlement deed dated 23.10.2008 executed by the first respondent in favour of the second respondent who happens to his wife. After examination of DW1, the petitioners came to know about the suit filed by the second respondent in OS.No.319 of 2011 for injunction in respect of the property which was settled in her favour by the first respondent herein. It was decreed and marked as Ex.B6. Therefore, the petitioners filed application seeking amendment of plaint to add the prayer of declaration declaring that the decree obtained in OS.No.319 of 2011 as null and void.



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4. On perusal of records, the petitioners already challenged the settlement deed executed by the first respondent in favour of the second respondent dated 23.10.2008 registered vide document No.1755 of 2008 as null and void. If they succeed in the suit, the decree passed in OS.No.319 of 2011 also becomes invalid. Therefore the petitioners need not challenge the decree in OS.No.319 of 2011. That apart, the amendment was sought for in this case after commencement of trial. It is not permitted and as such, the court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the court below.

5. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.01.2023

Speaking/non-speaking

Index : Yes/No

Internet : Yes

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G.K.ILANTHIRAIYAN, J.

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To
The learned III Additional District Court,
Vellore at Tirupattur

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