



C.R.P. No. 3218 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3218 of 2023

and

C.M.P.No.19847 of 2023

V. ManojKumar

...Petitioner

.Vs.

1. V.S. Arumugam

2. V.S. Kulandai Velusamy

3. V.P.Vellingirinathan

4.V.M. Vijayalakshmi

5. The Tahsildar,
Perur Taluk, Perur
Coimbatore.

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.8 of 2023 in O.S.No.928 of 2015 on the file of the I Additional District Munsif Coimbatore dated 14.07.2023 and pass orders.



C.R.P. No. 3218 of 2023

WEB COPY

For Petitioner : Mr. P. Chandrasekar

For Respondent :Mr.K. Govi Ganesan counsel for Cavetor

ORDER

This petition is filed to set aside the order passed in I.A.No.8 of 2023 in O.S.No.928 of 2015 on the file of the I Additional District Munsif Coimbatore dated 14.07.2023

2. The facts of the case is that the first and second respondents herein have filed the suit in O.S.No.928 of 2015 before the I Additional District Munsif Court, Coimbatore praying to demarcate the subject property and for permanent injunction restraining the defendants 2 and 3 their men agents and other persons claiming rights through them from trespassing into the suit property or interfering with the plaintiffs peaceful possession and enjoyment of the suit property. Pending suit, the mother of the petitioner herein transferred the property to the petitioner herein due to which I.A.No.5 of 2023 was filed to amend the cause title and accordingly the petitioner was arrayed as 5th defendant in the suit, whereas the first and respondents who are adjacent land owners have executed partition deed and the same was not



disclosed in the suit. It is pertinent to note that once the partition was effected between the parties they lose their right to continue in the suit proceedings in the capacity of owner of the schedule mentioned property. However, the first and respondents mislead the Court by disclosing the partition took place between them. Furthermore the first and second respondents filed a memo before the Trial Court on 02.01.2023 stating that the first respondent may be removed and the second respondent may be allowed to continue the case, but they have not stated the reason for which the first respondent should be removed from the case. Therefore, the petitioner filed I.A.No.8 of 2023 in O.S.No.928 of 2023 under Order 7 Rule 11 read with Section 151 of CPC to reject the plaint as it is not maintainable under provisions of CPC and also the suit is not having cause of action. However, the I.A.No.8 of 2023 in O.S.No.928 of 2023 was dismissed vide order dated 14.07.2023. Hence, this petition.

3. The learned counsel for the petitioner submitted that the first and second respondents herein have concealed about the partition deed and



pretended themselves as the owner of the subject property which is the clear abuse of process of law and the same has not taken cognizance by the Court below while passing the impugned order. Hence prays to allow this petition.

4. The learned counsel for the respondents submitted that the suit is of the year 2015 and the petitioner herein with an intention to delay the Judgment in the suit has filed the I.A. He further submitted that there is no maintainability in the I.A filed by the petitioners. Hence he prays to dismiss this petition.

5. Heard both sides and perused the materials available on record.

6. On a perusal of the records it is seen that the subject property is a ancestral one and the suit is of the year 2015. After filing of the suit the subsequent events happened during pendency of the suit i.e the Registered settlement Deed executed in favour of the petitioner/5th defendant by his mother and the partition took place between the first and respondents are subject to the facts of the case. Due to the above events, there will be some



C.R.P. No. 3218 of 2023

obstacles in demarcating the subject property among the parties concerned.

Hence the learned Judge is hereby directed to take steps for demarcating the subject property in the manner known to law before passing orders in the suit.

7. In view of the above, the learned Judge, Additional District Munsif Coimbatore is directed to complete the trial and dispose of the suit in O.S.No.928 of 2015 on or before 29.12.2023, without giving unnecessary adjournments. No order as to costs. Consequently, the connected miscellaneous petition is closed.

05.09.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The I Additional District Munsif Coimbatore



WEB COPY



C.R.P. No. 3218 of 2023

V.BHAVANI SUBBAROYAN,J.
Smn

C.R.P. No. 3218 of 2023

and

C.M.P.No.19847 of 2023

05.09.2023