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C.R.P.No.4915 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HON'BLE MR.JUSTICE T.V.THAMILSELVI

C.R.P.No.4915 of 2023 &
C.M.P.No.28948 of 2023

1.Saradha
2.Sujatha
3.Kavitha
4.V.Srinivasan

... Petitioners

Vs.

1.Alamelu
2.A.Subramanian

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 17.04.2023 passed in I.A.No.5 of 2023 in O.S.NO.56 of 2021 on the file of the Additional District Judge at Dharmapuri.

For Petitioner : Mr.V.Sakkarapani

ORDER

Challenging the order dated 17.04.2023 passed in I.A.No.5 of 2023 in O.S.No.56 of 2021, the petitioners who are the defendants 2 to 5 in the



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original suit filed the present revision.

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2. Originally the suit has been filed for partition. Pending the suit, the defendants 2 to 5 who are the petitioners herein filed I.A.No.5 of 2023 under Order 6 Rule 16 to strike out the pleadings with respect of properties under Item No.5 in the plaint with exemplary cost upon the plaintiff on the ground that the said properties is not a joint family property, but it is purchased by the husband of the first petitioner viz., Vadivel on 05.03.1990 by way of sale deed. However, the said application was opposed by the respondents stating that the suit is proper and valid in law and the petitioners are bound to face the trial and they cannot resist the suit for partition for avoiding examination of the parties and adducing the evidence. The trial court dismissed the said application stating that only at the time of trial, where the parties will adduce evidence, the nature of the item No.5 of the suit property can be decided. Aggrieved over the same, the present petition has been filed.

3. Learned counsel for the petitioners submits that in the sale deed dated 05.03.1990, it had been clearly stated that it is a self-acquired property of Vadivel and hence, it is not a joint family property.



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4. Admittedly, the first respondent filed the suit for partition stating that all the properties are joint family properties. It cannot be decided that the item No.5 of the suit property is a self-acquired property of one Vadivel without trial. This Court do not find any infirmity in the order passed by the trial court.

5. Accordingly, this civil revision petition is dismissed. However, there shall be a direction to the trial court to complete the trial and dispose of the suit within a period of three months from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citations : Yes/No



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To

1.The Additional District Judge at Dharmapuri.



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T.V.THAMILSELVI,J.

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