



C.R.P. No. 3471 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P. No. 3471 of 2022

Kempamma

.. Petitioner

Vs

1.Chikka Abbaiah
2.Narayanamma
3.Saraswathamma
4.Kanthamma
5.Subramani
6.Sakamma
7.Chadramma
8.Gowramma
9.Rajappa

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order in Un No. O.S.SR.8596 of 2022 on the file of the Principal Subordinate Court, Hosur dated 12.09.2022.

For Petitioner : Ms. R. Poornima

For Respondents : Mr. M. Selvam, for R1 to R5, R8 & R9
No Appearance for R6 & R7



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ORDER

This Civil Revision Petition is filed challenging the impugned order passed in UN No.SR.No.8596 of 2022 on the file of Principal Subordinate Judge, Hosur, the plaintiff preferred this revision.

2. Before the trial Court, the plaintiff filed a suit for permanent injunction and declaration for partition deed, sale deed and gift deed is to be declared as null and void. By paying the Court fee under Section 25(d) of Court Fee Act, stating that she was not a party to the document, as a third party, paying Court fee under Section 25(d) is sufficient. But the trial Court returned the plaint stating that the plaintiff ought to have pay the Court Fee under Section 40 of the Court Fee Act, stating that the said sale deed was executed by a co-parceners deemed to be executed by her also.

3. Challenging, the said finding, the plaintiff preferred this revision.



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4. Admittedly she filed the suit for declaration and other consequential relief challenging the document executed by her brothers and as a sister she filed suit for partition. Admittedly, she is not a party to the said document. Admittedly, the sale deeds were executed by the brothers. She cannot be deemed as a one of the party as a co-parceners property of the said document at this juncture. Therefore, the observation made by the trial Judge is totally erroneous one and the payment of the Court fee also can be decided at the end of proceeding. Therefore, UN.No.SR.No.8596 of 2022 is ordered to be taken on file within two weeks from the date of receipt of copy of this order.

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

19.10.2023

Index :Yes/No
Neutral Citation :Yes/No
AT



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T.V.THAMILSELVI, J.

AT

To
The Principal Subordinate Court, Hosur.

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