



CRP. No. 3996 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

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

CRP No. 3996 of 2023
& CMP No. 24512 of 2023

1.Yasotha @ Asothai Ammal
2.Kavitha
3.Naresh

...Petitioners

Vs.

Kumar

....Respondent

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the impugned order dated 30.06.2023 and made in I.A No. 874 of 2022 in O.S No. 101 of 2022 on the file of the Subordinate Court, Gingee.

For Petitioners : Mr.Suresh

ORDER



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This petition has been filed to set aside the impugned order dated 30.06.2023 and made in I.A No. 874 of 2022 in O.S No. 101 of 2022 on the file of the Subordinate Court, Gingee.

2. The learned counsel for the petitioners submit that the Court below failed to appreciate the fact that the respondent has no *locus standi* to file a suit for partition in respect of item No.1, 2 and 5 of the suit properties since because the respondent is stranger to the said suit properties as there is no document mentioned in the pleading or filed along with the plaint which suggest that the item No. 1, 2 and 5 of the suit properties are joint family properties of the plaintiff and his deceased brother. Further, item No. 5 of the suit property was allotted by the Slum clearance Board to the petitioners and the deceased Sivalingaam but the Court below failed to appreciate the above facts and also in the absence of the document or the proper discription of the properties in the suit schedule the suit cannot be valued appropriately for the purpose of payment of court fee. Hence, he prays to allow this petition.



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3. Considering the fact of the case, the petitioners' claim to reject the **plaint** on the ground is that item No. 1 , 3 and 5 of the suit property is self acquired property of one Sivalingam hence the plaintiff has not right to file the suit for partition and also disputed the Court fee, but all these can be decided only at the time of the Trial. Hence, this court is not inclined to interfere with the order of the Court below. However, considering the age of the first petitioner, the Trial Court is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this Order.

4. In the result, this Civil Revision Petition is disposed of. No cost. Consequentially, connected miscellaneous petition is closed.

21.11.2023

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To

1. The Subordinate Court, Gingee.



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T.V.THAMILSELVI,J.

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