



C.R.P.No.3589 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.3589 of 2019

and

C.M.P.No.23510 of 2019

A.Ramasamy

....

Petitioner

Vs

A.K.Kamalanath

....

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 13.08.2019 made in I.A.No.311 of 2018 in O.S.No.28 of 2018 on the file of the IV Additional District and Sessions Judge, Coimbatore.

For Petitioner : Mr.T.Dhanyakumar

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 13.08.2019 made in I.A.No.311 of 2018 in O.S.No.28 of 2018 on the file of the IV Additional District and Sessions Judge, Coimbatore, thereby dismissing the petition filed for rejection of plaint under Order 7 Rule 11 and Section 151 of CPC.

2. The revision petitioner is the sixth defendant in the suit filed



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by the respondent herein for partition. Pending suit, the petitioner filed an application under 7 Rule 11 of CPC to reject the plaint on the ground that he purchased part of the suit property from one of the legal heir. Thereafter, he demolished a portion of the building and had put up new construction. Neither the 1st respondent nor other respondents are in possession of the suit property. The petitioner is in exclusive possession of the portion of the suit property. Therefore, the respondent is not in joint possession of the suit property.

3. A perusal of the complaint reveals that there are so many issues involved and as such, it has to be gone into substantively, in trial. That apart, the respondents specifically contended that the sale deed dated 19.12.2007 is sham and nominal and therefore, he sought for declaration that the sale deed dated 19.12.2007 as null and void. It is further contended that the 4th and 5th defendants have no right to sell the suit property, after demise of his father. Therefore, the suit requires substantive trial and the Court below rightly dismissed the petition.

4. In view of the above, this Court finds no infirmity or illegality in the order dated 13.08.2019 made in I.A.No.311 of 2018 in



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O.S.No.28 of 2018 on the file of the IV Additional District and Sessions Judge, Coimbatore. Accordingly, this Civil Revision Petition stands dismissed. However, the petitioner is at liberty to raise all the grounds before the Trial Court. Consequently, connected miscellaneous petition is closed. No costs.

04.01.2023

Index:Yes/No
Internet:Yes/No
Lpp

To

The IV Additional District and Sessions Judge,
Coimbatore.

G.K.ILANTHIRAIYAN, J.

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