



C.R.P.(PD) No.2597 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.2597 of 2017
and C.M.P.No.12374 of 2017

K.R.Andu Gowder

... Petitioner

vs.

- 1.Kamala
- 2.Gangadevi
- 3.H.Nagulan
- 4.K.Subramani @ Saibaba
- 5.K.Sundari
- 6.K.Ranganath
- 7.K.Prem Kumar
- 8.Seenilakshmi
- 9.Drowpathi
- 10.Ammuammal
- 11.K.R.Chandran
- 12.K.R.Arjunan
- 13.K.R.Haldoraj
- 14.K.R.Ramesh
- 15.Saroja

... Respondents

(The 15th Respondent is already not pressed before
the Trial Court, Hence may be dispensed with)

Prayer: Petition filed under Article 227 of the Constitution of India against the Fair and Decretal Order passed in Tr.O.P.No.25 of 2016 dated 29.04.2017 on the file of the District Judge of the Nilgiris at Udhagamandalam.



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For Petitioner: Mr.P.R.Balasubramanian

For Respondents: Mr.A.Ramkumar (for R10 to R13)

No Appearance (for R1 to R9 & R14)
(served)

R15 - NDW

ORDER

This is truly an unfortunate case. A partition suit was initiated in the year 1984. It was numbered as O.S.No.161 of 1984 on the file of the District Judge, The Nilgiris, Udhagamandalam. The suit was decreed. Thereafter transferred to the file of the Sub Court at Udhagamandalam due to enhancement of pecuniary jurisdiction and re-numbered as O.S.No.46 of 1997. Preliminary decree was passed and final decree proceedings were initiated. Final decree was also allowed in I.A.No.57 of 2008.

2.Challenging the decree in O.S.No.46 of 1997 (originally numbered as O.S.No.161 of 1984 on the file of the District Judge, Udhagamandalam), a fresh suit was presented. This suit was numbered as O.S.No.16 of 2009. The petitioner moved an application in I.A.No.70 of



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2009. The said application was taken up for hearing and had been adjourned for orders after hearing of arguments. The orders were not pronounced.

3.The learned District Judge was moved by the respondents, who though served have not entered appearance before me alleging that the son of the first respondent is a lawyer practicing in Kothagiri and therefore, he is delaying the disposal of I.A.No.70 of 2009.

4.The learned District Judge went into this issue and found that there is absolutely no truth in the allegation. Infact, he held that the statement against the lawyer as well as the judicial officer and the Court staffs are totally false. Having held so, surprisingly he transferred the suit from the file of the District Munsif Court, Kothagiri to the file of the District Munsif Court at Udhagamandalam vide order dated 29.04.2017 in O.P.No.25 of 2016. Challenging the same, the present civil revision petition has been filed.

5.When the Court found that there is no substance at all in the allegations that had been made against the lawyer, the Court as well as the Court staffs, it ought to have dismissed the application. Surprisingly, it has allowed the petition and therefore proceeding which had been initiated in 1984 is still languishing after a period of 39 years.



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6.Had the Court not allowed the transfer petition, the proceedings would have been over by now. Therefore, I am constrained to interfere with the order passed in O.P.No.25 of 2016 dated 29.04.2017. The order is set aside. The suit shall be retained on the file of the District Munsif Court, Kothagiri. The District Munsif Court, Kothagiri is requested to give priority to the matter as the suit is pending for more than three decades and ensure that orders are passed in I.A.No.70 of 2009 within a period of six weeks from the date of receipt of a copy of this order.

7.With the above observation, this civil revision petition stands allowed. No costs. Connected miscellaneous petition is closed.

12.07.2023

Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No
vs

To

The District Judge of the Nilgiris
at Udhamandalam.



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V. LAKSHMINARAYANAN,J.

VS

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