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C.R.P.No.3689 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

CORAM

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

C.R.P.No.3689 of 2017
and C.M.P.No.17076 of 2017

Rangammal

... Petitioner

Vs.

1. R.Uliveeran
2. R.Venkatesan
R.Kaliappan (Died)
R.Karuppappan (Died)
R.Rangasamy (Died)
3. Subbammal
4. K.Palanisamy
5. K.Manoharan
6. Vasantha
7. Rajathi
8. K.Mohankumar
9. K.Ganesan
10. K.Rajamani
11. Nanjammal
12. Kavithal
13. Kousalya

... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 01.07.2016 made in I.A.No.1017 of 2015 in I.A.No.108 of 2014 in O.S.No.488 of 1988 on the



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file of the III Additional Subordinate Court, Coimbatore (Camp Sub-Court, Mettupalayam) and allow this Civil Revision Petition.

For Petitioner : Mr.N.S.Sivakumar

For Respondents

For R1 & R2 : Mr.P.Tamilavel
for M/s.Sarvabhauman Associates

For R3 to R13 : No appearance

ORDER

The Civil Revision Petition has been filed as against the order dated 01.07.2016 passed by the learned III Additional Subordinate Judge, Coimbatore (Camp Sub-Court, Mettupalayam), in I.A.No.1017 of 2015 in I.A.No.108 of 2014 in O.S.No.488 of 1988, thereby dismissing the petition to stay all further proceedings of the final decree application.

2. The petitioner is the fourth defendant in the suit filed by the respondents 1 & 2 herein in O.S.No.488 of 1988 for partition. The petitioner failed to contest the suit as such she was set exparte. Thereafter the suit was decreed in favour of the respondents 1 & 2 herein on 31.03.2000. After receiving notice in the final decree application, the petitioner came to know



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about the suit proceeding. Hence, the petitioner filed suit in O.S.No.650 of 2013 on the file of the Principle Subordinate Court, Coimbatore, to cancel the preliminary decree passed in O.S.No.488 of 1988.

3. In the meanwhile, the petitioner also filed an application in I.A.No.1017 of 2015 to stay all further proceeding in the suit, till the disposal of the suit filed in O.S.No.650 of 2013 challenging the preliminary decree passed in the present suit in O.S.No.488 of 1988, for the reason that no certified copy of the final decree available in the case bundle. The trial Court dismissed the said application as against which the present Civil Revision Petition.

4. Heard Mr.N.S.Sivakumar, learned counsel appearing for the petitioner and Mr.P.Tamilavel, learned counsel appearing for the respondents 1 & 2.

5. It is seen that even according to the petitioner, as against the



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preliminary decree passed in O.S.No.488 of 1988, she filed suit before the Principal Subordinate Court, Coimbatore in O.S.No.650 of 2013 and it is pending. When it being so, the petitioner is not entitled for stay of all further proceedings in final decree application filed in O.S.No.488 of 1988, on the ground that no certified copy of the final decree available in the case bundle. Therefore, the trial Court rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

6. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.02.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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WEB COPY To

1. The III Additional Subordinate Judge,
Coimbatore. (Camp Sub-Court, Mettupalayam)



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G.K.ILANTHIRAIYAN, J.

rts

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