



C.R.P.No.4550 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM:

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

C.R.P.No.4550 of 2023

1. D. Vasantha
2. D.Sivaraman
3. D.Balamurali

... Petitioners

-Vs-

1. V.Krishnamoorthy
2. N.Sagunthala
3. N.Palani
4. N.Punitha
5. N.Nalini
6. N.Malar

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 08.08.2023 made in I.A.No.1 of 2023 in O.S.No. 52 of 2020 on the file of Addl. District Court, Tiruvannamalai and consequently allow the said I.A. as prayed for by allowing the above C.R.P..

For Petitioner

: Mr.J.Ramakrishnan



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ORDER

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Challenging the impugned order passed in I.A.No.1 of 2023 in O.S.No. 52 of 2020 passed by the learned Addl. District Judge, Tiruvannamalai, the Revision Petitioners/defendants 1 to 3 preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioners filed an application in I.A.No. 1 of 2023 under Order 47 Rule 1 of C.P.C. r/w Sec.151 of C.P.C. to review the judgment of the trial court in O.S.No. 52 of 2020. According to the Revision Petitioners, as per the Will, Ex.B1 contained the suit property as well as other property. But, while disposing the suit, the trial judge instead of passing order in respect of suit property, in its entirety declared as void. As the subject in issue is only with regard to particular item, the entire items of the Will cannot be declared as void, since it is not the scope of case. So, they have filed the review application for reviewing the judgment. On hearing their submissions, the trial judge held that there



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was no error on the face of record and the judgment was passed on merits, thereby it was dismissed. Challenging the said findings, the Revision Petitioner/defendants 1 to 3 preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioners would submit that trial judge erroneously declared the Will Ex.B1 in respect of entire property as void, in fact, some of portion of property of the Will alone is subject in issue in respect of suit property, though the trial court is entitled to agitate the issue with regard to entire property covered under Ex.B1 Will. Hence, he prayed to set aside the findings of the trial judge.

5. Admittedly, as per the findings of trial judge, Ex.B1 Will is declared as void. So, the order passed by the trial judge adjudicating the issue made by the trial judge in respect of Will, there was no error on the face of record and it is the order passed by the trial judge and the the same can be agitated in the appeal proceedings. Now, the Revision Petitioner preferred an appeal and the same is pending before the appellate forum. So, I do not find any merit in this Revision Petition. Accordingly, this Civil Revision Petition is dismissed. Liberty is granted to the Revision Petitioner



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to raise those objections before the appellate forum. No costs.

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Index : Yes/No
Speaking Order : Yes/No
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To

The Addl. District Judge, Tiruvannamalai.

T.V.THAMILSELVI, J.



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