



CRP No. 4561 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED :14.12.2023

CORAM :

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

Civil Revision Petition No.4561 of 2023

1.P.Gopalan
2.S.Sumathi
3.A.Senthil
4.A.Balakumar

... Petitioners

Versus

1.B.Kalaiselvi
2.P.Ravichandran
3.K.Thirugnanasambandam
4.T.Rajaram
5.T.Saranya
6.M.Suganthi
7.G.Manonmani
8.G.Maheshkumar
9.G.Arunprakash
10.R.Dhanalakshmi
11.R.Raghupathi
12.R.Sivakumar
13.S.Visalakshi
14.M.Kavitha
15.The Joint II Sub-Registrar

... Respondents

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the fair and decretal order of the I Additional District and Session's Judge at Tiruppur dated 21.08.2023 in CFR.No.7794 of 2023 (unnumbered O.S.No. Of 2023) and direct the Original Suit to be numbered.



CRP No. 4561 of 2023

For Petitioners : Mr. P.Valliappan, Senior Counsel
for Mr.K.M.Hareesh

WEB COPY

ORDER

The petitioners have filed this petition to set aside the fair and decretal order of the I Additional District and Session's Judge, Tiruppur dated 21.08.2023 in CFR.No.7794 of 2023 (unnumbered O.S.No. Of 2023).

2. Heard Mr.P.Valliappan, the learned senior counsel for Mr.K.M.Hareesh, the learned counsel appearing for the petitioners and perused the materials available on record.

3. Before the trial Court the revision petitioners / plaintiffs have filed a suit for partition and for a separate Possession in respect of 1/3 share in the Suit property and for declaration, declaring that the partition deeds dated 07.09.1979 and 31.12.1993 are null and void abinitio and not binding on the plaintiffs. The contention of the plaintiffs are that their father Palaniappa Mudhaliar along with two brothers namely Muthuswamy and Arumugam jointly purchased the suit property. After the demise of the said Palaniappa Mudhaliar, the first plaintiff as a only son, and other plaintiffs are in joint possession along with other legal heirs of Muthuswamy and Armugam, but



CRP No. 4561 of 2023

behind his back Muthuswamy and Arumugam alone entered into a partition deed in the year 1979. Consequently in the year 1993, when they verified the Encumbrance Certificate as the Co-sharers are having 1/3 rd share in the property, they came forward with the present suit for partition. But the learned trial Judge rejected the plaint stating that after a long years they come forward with the suit. Considering the partition deed dated 07.09.1979. According to the plaintiffs, they are the legal heirs of the Palaniappa Mudhaliar who is said to be the joint purchaser of the suit property along with his other two brothers on 09.11.1934. The defendants herein are the legal heirs of the said Muthuswamy and Arumugam.

4. According, to the plaintiffs all the documents were created behind their back, now they are nearing 80 years. If opportunity is not given to them to prove the case, their valuable right will be defeated.

5. The learned trial Judge erroneously rejected the plaint stating that after a long years the suit was filed. As a co-sharers / plaintiffs are entitled to file a suit for partition at any stage. Therefore the rejection made by the learned trial Judge is set aside.



WEB COPY



CRP No. 4561 of 2023

T.V.THAMILSELVI, J.

rri

6. Registry of the trial Court is directed to number the plaint, if it is otherwise in order within a period of two weeks from the date of receipt of a copy of this order and the learned trial Judge is directed to dispose of the case as early as possible.

7. Accordingly, this Civil Revision Petition is allowed. There shall be no order as to costs.

14.12.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No
rri

To

1. The I Additional District and Session's Judge,
Tiruppur.
- 2.The Section Officer,
VR-Section, High Court of Madras.

Civil Revision Petition No. 4561 of 2023