



CRP (MD) No.653 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	08.08.2023
Pronounced on	13.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

CRP (MD) No.653 of 2023

and

CMP(MD)No.3061 of 2023

Ravikumar

... Petitioner

Vs.

1.Guruvammal

2.Chandran

3.Usharani

Chinnasamy (died)

4.Vijayarani

5.Gengammal

6.Mahalakshmi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.1 of 2022 in O.S.No.90 of 2012 on the file of the Sub Court, Kovilpatti, dated 20.12.2022.



CRP (MD) No.653 of 2023

For Petitioner : Mr.P.Athimoolapandian
For R1 to R3 : Mr.F.X.Eugene
For R5 & R6 : No appearance

ORDER

This petition is preferred against the order passed in I.A.No.01 of 2022 in O.S.No.90 of 2012 on the file of the Sub Court, Kovilpatti, dated 20.12.2022.

2. The above suit in O.S.No.90 of 2012 was filed by the petitioner as plaintiff for partition and to allot 1/9th share to the plaintiff. During the pendency of the above suit, the defendants 4 and 5 filed an application in I.A.No.01 of 2022 in O.S.No.90 of 2012 for reopening the case to adduce evidence on their side. In the petition, the defendants 4 and 5 have pleaded that since their side evidence was *suo motu* closed by the Court, it has become necessary for them to file an application to reopen the case to adduce evidence on their side. The said application was resisted on the side of the first respondent/plaintiff stating that inspite of sufficient time given by the



Court, they failed to adduce evidence and therefore, their evidence was closed. The trial Court, after considering the averments made in the petition and the counter affidavit, allowed the application on payment of cost of Rs. 10,000/-. Aggrieved by this, the second defendant in the suit filed the above revision by stating that the trial Court committed a grave error in allowing the application after a lapse of 10 years. Since the defendants 4 and 5 failed to adduce evidence and cross examine D.W.1 to D.W.5, their evidence was closed. Having failed to utilize the opportunity given to them, the trial Court ought not to have allowed the application filed by the fourth and fifth defendants to reopen the case. It is further submitted that the case is at the stage of defendant's side further evidence and by allowing this application, the nature and character of the suit would be changed which would introduce a new set of idea and cause prejudice to the right of the petitioners.

3. On the other hand, the learned counsel appearing for the respondents 1 to 3 would submit that the trial Court with an intention to afford sufficient opportunity to the defendants 4 and 5 has rightly allowed the application by imposing costs upon the respondents. Therefore, there is no perversity in the



CRP (MD) No.653 of 2023

order passed by the trial Court.

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4. Heard on both sides and records perused.

5. On perusal of records, it is seen that the trial Court has given sufficient opportunities to the defendants 4 and 5 to adduce evidence on their side. However, the defendants 4 and 5 failed to adduce evidence on their side. Since it is a suit for partition, sufficient opportunity should be given to the parties to putforth their case and therefore, in the interest of justice the trial Court has allowed the said application filed by the defendants 4 and 5 and there is no perversity or infirmity found in the order of the trial Court. However, the trial Court considering the attitude of the respondents 1 and 2/defendants 4 and 5 had imposed cost on the defendants by way of compensation. Hence, no infirmity is found in the order passed by the trial Court. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2023



CRP (MD) No.653 of 2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
cp/vsn

To

The Subordinate Judge,
Kovilpatti.

K.GOVINDARAJAN THILAKAVADI

5 / 6



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CRP (MD) No.653 of 2023

cp/vsn

order made in
C.R.P(MD)No.653 of 2023
and C.M.P.No.3061 of 2023

13.12.2023