



C.R.P.(MD)No.1919 of 2023

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DATED: 11.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.1919 of 2023

and

C.M.P.(MD)No.9586 of 2023

Ponnar

... Petitioner

Vs.

1. Nadu Kattiyam @ Periyasamy

2. Periyasamy

3. Thambikilan (Died)

4. Velayutham Chettiyar

5. Pennatchi

6. Dharmaraj

7. Elayaraja

8. Nallammal

9. Kalamani

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records in I.A.No.12 of 2023 in



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O.S.No.96 of 2011 order dated 02.06.2023 on the file of the learned Additional District Munsif Court, Musiri and set aside the same and allow the civil revision petition.

For Petitioner : Mr.V.Meenakshi Sundaram
for Mr.K.Arunraj

For R1 : Mr.S.Ramesh

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.12 of 2023 in O.S.No.96 of 2011 dated 02.06.2023 on the file of the Additional District Munsif Court, Musiri, dismissing the application filed under Order 7 Rule 11 C.P.C.

2. When the matter is taken up for hearing today, the learned counsel appearing for the revision petitioner has filed a Memo dated 08.12.2023 exonerating the respondents 2 to 9 in the revision petition. The above said Memo is recorded.

3. The first respondent/plaintiff has filed the suit in O.S.No.96 of 20211 for partition and allotment of 1/3rd share in 'A' scheduled property and half share in 'B' scheduled property and for permanent injunction



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restraining the respondents 2 to 9/defendants 1 to 8 and the revision petitioner/9th defendant from encumbering and alienating the property.

4. It is not in dispute that when the trial was in part-heard stage, the revision petitioner/9th defendant has filed the application in I.A.No.12 of 2023 to reject the plaint under Order 7 Rule 11 C.P.C. and that the first respondent/plaintiff has filed a counter statement raising objections. The learned trial Judge, by mainly observing that there is no cause of action for claiming partition in respect of 'A' scheduled property, but there is cause of action in respect of 'B' scheduled property and the same is not barred by time and taking note of the fact that the suit cannot be rejected in part, dismissed the application.

5. The learned counsel appearing for the revision petitioner would submit that after hearing the first respondent/plaintiff's side arguments, the case was posted for the arguments of the revision petitioner/9th defendant on 04.12.2023 and since the arguments was advanced on the ground that the civil revision petition is pending, the trial Court *suo motu* closed the arguments and posted the case for judgment on 12.12.2023.



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6. The learned counsel appearing for the revision petitioner would further submit that the revision petitioner/9th defendant may be permitted to place their arguments and the trial Court may be directed to pass the judgment thereafter. He would further submit that the revision petitioner/9th defendant may be permitted to argue all the aspects/points now canvassed in the civil revision petition.

7. The learned counsel appearing for the first respondent would submit that they are not having any objection for issuing such a direction to the trial Court.

8. Recording the submissions made by the learned counsel appearing for the revision petitioner as well as the first respondent, the learned Additional District Munsif, Musiri, is hereby directed to give an opportunity to the revision petitioner to place their arguments and hear the reply argument of the other side, if any and then to pass the judgment.

9. With the above direction, this Civil Revision Petition is disposed of. The revision petitioner is at liberty to canvass the aspects/points in the



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civil revision petition at the time of arguments, subject to the availability of the pleadings and evidence. Consequently, connected Miscellaneous Petition is closed. No costs.

11.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

Note : Issue order copy today (11.12.2023)

To

1. The Additional District Munsif Court,
Musiri.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.1919 of 2023
and
C.M.P.(MD)No.9586 of 2023

Dated : 11.12.2023