



C.R.P(MD)No.49 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.02.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.49 of 2020
and
C.M.P(MD)No.281 of 2020

V.Sakthivel Murugan

... Petitioner/Petitioner/
Plaintiff

Vs.

1.K.Baranidharan

2.M.Uma Srikala

3.R.Kannan

4.M.Jayaveeramanikanda Raja

5.P.Sujimon

6.Visukumar

7.V.Manoharan

8.P.Sisilkumar

9.P.Jayapaul

10.S.Pitchaiah

... Respondents/Respondents/
Defendants



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PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair order and decreetal order passed in I.A.No.942/2017 in O.S.No.258/2012 on the file of the I Additional District Munsif Court, Tirunelveli Dated 29.7.2019.

For Petitioner : Mr.T.Selvan

For R8 : Mr.H.Arumugam

For R10 : Mr.R.Anand

For R1 – R7 & R9 : No Appearance

ORDER

The plaintiff in a suit for partition is the revision petitioner.

2. While the suit for partition was pending, the plaintiff had filed I.A.No.942 of 2017 seeking the permission of the Court to withdraw the suit with liberty to file a fresh suit on the same cause of action. The said application has been dismissed by the trial Court. Challenging the same, the present revision petition has been filed.

3. A perusal of the affidavit filed in support of I.A.No.942 of 2017 indicates that the petitioner would like to withdraw the suit for partition in order to file a fresh suit for declaration of title and permanent



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injunction. The question of seeking liberty of the Court to file a fresh suit would arise only if the fresh suit is going to be filed on the same cause of action. As could be seen from the affidavit, the petitioner is intending to file a suit for declaration of title and permanent injunction which is not based upon the cause of action for filing a partition suit. Therefore, the trial court was right in rejecting the request for a permission to withdraw the suit with liberty to file a fresh suit. However, the petitioner/plaintiff is always at liberty to withdraw the suit without seeking any permission from the Court, in case if he intends to file a fresh suit on a different cause of action.

4. Therefore, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

15.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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- To
- 1.The I Additional District Munsif Court,
Tirunelveli.
 - 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.49 of 2020

15.02.2023