



C.R.P.No.1185 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1185 of 2024

and

C.M.P.No.6113 of 2024

R.Velliangiri

... Petitioner

Vs.

1.Tmt.Palaniammal

2.R.Muthusamy

3.R.Natarajan

4.R.Easwaran

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the docket order passed in Unnumbered I.A.No. 2024 in O.S.No.28 of 2021 on the file of the Principal Sub-Ordinate Court, Tiruppur dated 21.02.2024 by allowing the civil revision petition in directing to number the I.A.

For Petitioner

:Mr.P.Saravanan



ORDER

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The Civil Revision Petition is filed challenging the docket order passed by the Trial Court returning the application filed under Order XX Rule 18 of CPC.

2. The petitioner herein filed a suit seeking partition of his 1/5th share in the suit property. While the suit was pending, the petitioner filed the instant application seeking direction to conduct enquiry into the profits earned by the 3rd respondent and to deposit petitioner's share to the credit of the suit. The instant application has been filed by the petitioner under Order XX Rule 18 of CPC.

3. The question of enquiry into the profits earned by the parties would arise only at the time of passing of the decree and prior to passing of the decree, there cannot be an enquiry into the mesne profits. First of all, the share of the petitioner shall be ascertained. Then only, the question of conducting enquiry into the mesne profits would arise. Therefore, the Court below rightly returned the application filed by the petitioner on the ground that application



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can be entertained only after passing of the preliminary decree. I do not find any error in the order passed by the Trial Court. However, it is open to the petitioner to file appropriate application for protection of his interest pending suit.

4. With these clarifications, this Civil Revision Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

28.03.2024

Index : Yes / No
Internet : Yes / No
nr

To
The Principal Sub-Ordinate Court, Tiruppur

S.SOUNTHAR, J.

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