



C.R.P.No.1201 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.1201 of 2021

and

C.M.P. No.9255 of 2021

S. Sarasu @ Saraswathi W/o. Late Sambantham

... Petitioner

vs.

1. Mohanambal
2. Selvi W/o. Arumugam
3. Raji @ Devaraj
4. G. Eswaran @ Kannan
5. R. Mallika W/o. Ravi
6. G. Anbu S/o. Late Govindasamy
7. G. Sekar S/o. Late Govindasamy

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the docket order dated 05.03.2021 returning I.A. SR No.9883 of 2021 in I.A. No.163 of 2018 in O.S. No.113 of 2013 passed by the learned XV Additional Judge, City Civil Court, Chennai so as to entertain and dispose of the I.A. SR No.9883 of 2021 on merits in accordance with law.



C.R.P.No.1201 of 2021

For Petitioner
For Respondents

: Mr. R. Shanmugam
:Mr. M. Balakrishna [for R1, R3 to R6]
Mr. A. Venkatesh Kumar [for R2]
Mr. J. Nagarajan [for R7]

ORDER

The Civil Revision Petition is filed challenging the docket order passed by the Trial Court returning the petition filed by the revision petitioner in I.A. No.163 of 2018 in O.S. No.113 of 2013, filed for passing of rejection of plaint.

2. According to the petitioner, the respondents 1 to 6 filed a Suit for partition in O.S. No.113 of 2013 by including her name as 4th plaintiff and obtained a preliminary decree for partition. It is the specific case of the petitioner that she never engaged any Advocate and filed a Suit in O.S. No.113 of 2013 along with the respondents 1 to 6. The said Suit was dismissed and aggrieved by the same, an appeal was filed in A.S. No.926 of 2016 before this Court and the same was allowed and a preliminary decree was passed. Thereafter, the respondents 1 to 6 filed a petition in I.A. No.163 of 2018 for passing of final decree. In the said interlocutory application, the



C.R.P.No.1201 of 2021

petitioner herein, was also shown as 4th petitioner. It is the specific case of the petitioner that she has not signed the Vakalat to enable the respondents 1 to 6 to file final decree application by including the petitioner as one of the petitioners. Therefore, the instant application has been filed by the petitioner seeking Trial Court to reject the final decree petition in I.A. No.163 of 2018. The said application was returned by the Trial Court on the ground that if the petitioner had no knowledge about the final decree petition, she can very well seek transposition of her name as one of the respondents in the final decree petition. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner by taking this Court to the copy of the Vakalat filed in final decree application submitted that the petitioner's signature is not available in the Vakalat filed in final decree petition and hence inclusion of name of the petitioner as 4th petitioner in I.A. No.163 of 2018, without her Vakalat is not justified. It is further submitted by the learned counsel that even in the original suit as well as in the appeal against preliminary decree, the petitioner never signed any Vakalat and engaged any Advocate to conduct her case on her behalf. However, her



C.R.P.No.1201 of 2021

name was shown as 4th plaintiff and 4th appellant in final decree. Therefore, the learned counsel submitted that the order impugned in this revision need to be set aside with a direction to the Trial Court to investigate the matter.

4. The learned counsel for the respondents submitted that if the petitioner is not willing to get along with the final decree application, it is always open to her to file an application to transpose her name in the place of respondents instead of petitioner. Therefore the order impugned in this revision need not be interfered with.

5. It is the specific case of the petitioner that she has not engaged any Advocate or filed any Vakalat to enable the respondents 1 to 6 to file final decree petition. A perusal of Vakalat filed in final decree application would suggest that the petitioner has not put her signature in the Vakalat. However, the respondents 1 to 6 and other petitioners in final decree petition in I.A. No.163 of 2018 have signed or affixed their thumb impression. In such circumstances, impleading of the petitioner as 4th petitioner in final decree application without her signature appears to be improper. In view of the



C.R.P.No.1201 of 2021

serious allegation made by the petitioner disputing her signature in the

WEB COURT Vakalat, the matter requires to be investigated.

6. Therefore, the impugned docket order dated 05.03.2021 returning I.A. SR No.9883 of 2021 in I.A. No.163 of 2018 in O.S. No.113 of 2013 is hereby set aside and the Trial Court is directed to number the application filed by the petitioner seeking rejection of I.A. No.163 of 2018 and dispose of the application on merits in accordance with law after providing sufficient opportunities to all the parties concerned. It is needless to say that the respondents are at liberty to raise their objections before the Trial Court including the question of maintainability.

7. With this direction, the Civil Revision Petition stands disposed of.
No costs. The connected Civil Miscellaneous Petition is closed.

19.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

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C.R.P.No.1201 of 2021

The XV Additional Judge, City Civil Court, Chennai.

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C.R.P.No.1201 of 2021

S.SOUNTHAR, J.

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C.R.P.No.1201 of 2021

19.03.2024