



C.R.P.No.76 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.76 of 2023
and C.M.P.No.564 of 2023

Muthusamy

... Petitioner

-Vs-

1.Chellathal
2.Thirumathal
3.Vellaithai

4.The District Collector
Collectorate, Tiruppur Town
Tiruppur District.

5.The Revenue Divisional Officer
Dharapuram Town, Dharapuram Taluk
Tiruppur District.

6.The Tahsildar
Dharapuram Town
Dharapuram Taluk
Tiruppur District.

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decretal order dated 26.03.2019 made in I.A.No.199 of 2018 in O.S.No.237 of 2015 on the file of the Hon'ble District Munsif, Dharapuram by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Ponraj

ORDER

The plaintiff is the petitioner. He filed a suit for declaration to declare that suit item No.1 belongs to him as per the proceedings of the Deputy Tahsildar,



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Dharapuram dated 15.09.2010. Subsequent to the order passed by the Deputy Tahsildar, respondents before me preferred an appeal to the District Revenue Officer at Tiruppur and the patta granted in favour of the petitioner stood cancelled on 27.03.2017. Taking into consideration the cancellation of the patta, the petitioner now wants to withdraw O.S.No.237 of 2015 on the file of the District Munsif Court at Dharapuram and initiate fresh proceedings for partition or declaration of his title.

2. A suit can be withdrawn if the plaintiff shows a formal defect in the proceeding. The fact that he wants to file a suit due to orders passed subsequently will not be a ground to withdraw the suit already initiated by him. It is not in dispute that his sister / second respondent herein has already filed O.S.No.266 of 2015 for the purpose of partition. The ground raised by the petitioner that he wants to file a fresh suit not being one of formal defect, I am not in a position to agree with the vehement contention of Mr.Ponraj. I do not see any error or irregularity in the order of the learned District Munsif, Dharapuram. Granting liberty to the petitioner to raise all the defences he has in O.S.No.266 of 2015, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

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The District Munsif
Dharapuram.



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V. LAKSHMINARAYANAN, J.

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