



C.R.P.No.2501 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM :

The Hon'ble MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.No.2501 of 2024
and C.M.P.Nos.13152 and 13153 of 2024**

P.Shanmugam

.. Petitioner

-VS-

P.Sampath

.. Respondent

Petition filed under Article 227 of the Constitution of India against the order dated 18.04.2024 passed in I.A.No.6 of 2024 in O.S.No.20 of 2021 on the file of Additional District Judge, FTC, Arani, Thiruvannamalai District.

For Petitioner

: Mr.S.Senthilnathan

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ORDER

The plaintiff is the civil revision petitioner. He has filed the suit for partition of certain immovable properties which he claims are owned jointly by him and the sole defendant. On service of summons, the defendant filed a written statement accepting the fact that the suit



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schedule mentioned properties, as they stand, have to be divided between the plaintiff and the defendant. This is clear from a perusal of paragraph 5 of the written statement filed by him. Thereafter, he took out an application in I.A.No.6 of 2024 pleading that the plaintiff, from and out of the income of the joint family assets, had purchased the schedule mentioned properties in I.A.No.6 of 2024 and therefore, the said properties are to be included in the schedule to the suit.

2. A counter was preferred by the plaintiff stating that the properties, which are covered in 'A' schedule, have come to both parties by virtue of a settlement deed executed on 01.03.2011, and the properties which are sought to be included by virtue of I.A.No.6 of 2024 are his self-acquired properties which need not be included in the schedule to the suit.

3. The learned Additional District Judge, Fast Track Court, Arani, came to a conclusion that whether the properties are self-acquired properties or otherwise has to be gone into only at the time of trial and consequently, allowed the petition. Against which, the present revision.



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4. The clear and categorical case as seen from the application to include the properties set forth in the schedule to that application is that the said properties had been purchased from and out of the income of the joint family assets. Whether the plaintiff had acquired the properties out of his own avocation or whether they had been purchased from and out of the income which the joint family properties generated are matters which are to be gone into at the time of trial. I do not find any error in the order of the learned Additional District Judge in including the properties as part of the suit schedule. As stated by the learned Judge, the plaintiff always has ample opportunity to agitate this issue at the time of trial.

5. Accordingly, the order of the learned Additional District Judge, Fast Track Court, Arani, in I.A.No.6 of 2024 in O.S.No.20 of 2021 dated 18.04.2024 stands confirmed and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Website : Yes/No
Speaking/Non-speaking Order

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V.Lakshminarayanan, J.

(sra)

To

The Additional District Judge,
Fast Track Court, Arani,
Thiruvannamalai District.

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