



C.R.P.No.2401 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2401 of 2021 and
C.M.P.No.18234 of 2021

K.P.Kalpagam

... Petitioner

Vs.

1.Mrs.Janani
2.Mr.R.Roshini
3.Ms.Randhini
4.K.P.Sivaramakrishnan
5.K.P.Krishnan
6.K.P.Chandrasekaran
7.K.P.Shankar
8.A.Malathy

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 08.03.2021 of the Hon'ble II Additional City Civil Court, Chennai in I.A.No.1 of 2020 in O.S.No.2631 of 2016.

For Petitioner : M/s.P.Gurusamy

For respondents 1 to 3 :Mr.A.Palaniappan

For respondents 4,7 &8 :Mr.K.Youvaraj
Mr.A.K.Asina



ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner/1st defendant seeking to reject the plaint.

2. The 1st respondent herein filed a suit for partition claiming 1/7th share in the suit property. According to the 1st respondent, the suit property was allotted in favour of the petitioner and sale deed was executed to petitioner by the Tamil Nadu Housing Board in lieu of compensation payable to common ancestor namely one K.R.P. Haran. It is the case of the respondents 1 to 3/plaintiffs that said Haran was father-in-law of the 1st respondent and paternal grand father of the respondents 2 and 3.

3. The petitioner herein who was arrayed as 1st defendant in the suit came up with this petition to reject the plaint mainly on the ground that respondents 1 to 3 failed to seek prayer for setting aside the sale deed executed in favour of the petitioner. The learned counsel for the petitioner submitted that Tamil Nadu Housing Board executed sale deed in favour of petitioner. Therefore, the same is the exclusive property of the petitioner and the suit for



partition filed by the respondents 1 to 3 is not at all maintainable .

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4. The respondents 1 to 3 claim right over the suit property mainly on the ground that the same was allotted to petitioner in lieu of compensation payable to common ancestor namely Haran. Whether the suit property is the exclusive property of the petitioner or the same is available for partition is a matter to be decided at the time of trial based on the evidence to be let in by the parties. The same cannot be a ground in a petition to reject the plaint. The Court cannot go into the said disputed question of fact. It is settled law that plaint can be rejected only based on the averments found in the plaint and the Court cannot refer to the defence raised by the defendant. In such circumstances, I do not find any error in the order passed by the Trial Court dismissing the petition filed by the petitioner seeking rejection of the plaint. Accordingly, the Civil Revision Petition stands dismissed.

5. At this juncture, the learned counsel for the respondents 1 to 3 submitted that the trial in the suit is already commenced and the evidence of plaintiffs' side is already closed.



C.R.P.No.2401 of 2024

6. Having regard to the fact that the suit is of the year 2016 and the recording of plaintiffs' side evidence is already over, this Court is inclined to direct the Trial Court to dispose of the suit as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

14.02.2024

Index : Yes / No

Internet : Yes / No

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To

The learned II Additional City Civil Judge, Chennai

S.SOUNTHAR, J.

4/5



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C.R.P.No.2401 of 2021

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