



C.R.P.No.2980 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

C.R.P.No.2980 of 2023

and C.M.P.No.18406 of 2023

C. Jayagopal

...Petitioner

vs.

1. V.Anandapadmanaban @ V.Anandan

2. Indirani

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order in unnumbered I.A.No. of 2021 in O.S.No.8692 of 2011 dated 05.01.2023 passed by XVII-Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.C.Umashankar

For Respondents : Mr.M.Ganesan

ORDER

This Civil Revision Petition has been filed by the first defendant in O.S.No.8692 of 2011 on the file of the learned XVII-Additional Judge, City Civil Court, Chennai, against the order passed in I.A.S.R.No.33448 of



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2023 dated 05.01.2023.

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2. Heard Mr.C.Umashankar, learned counsel for the petitioner and Mr.M.Ganesan, learned counsel for the respondents.

3. The suit was filed for the relief of preliminary decree for partition and for other relieves in respect of 3 items of landed properties. It appears that preliminary decree was passed and thereafter, I.A.No.1 of 2021 dated 25.01.2023 was filed for passing of final decree. Wherein, Advocate Commissioner was appointed and he has filed his report. When the matter was posted for enquiry in the final decree proceedings, an application (I.A.Sr.No.33448 of 2023 in O.S.No.8692 of 2011) was taken out by the first defendant C.Jayagopal under Order VI Rule 17 of Civil Procedure Code, 1908 to include the mother's property under Order VI Rule 17 of CPC. In the S.R. stage itself, the impugned order was passed by the learned Trial Judge by rejecting the said application. Against which, the present revision petition has been filed.

4. It is relevant to note that a similar application in I.A.No.86 of 2012 was filed before this Court in C.S.No.868 of 2007 and it was dismissed on 11.07.2012. Against which C.R.P.No.3019 of 2012 was filed and it was



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dismissed on 17.09.2012. S.L.P.No.36311 of 2012 preferred before the Apex Court was dismissed as withdrawn on 10.12.2012 with a liberty to the petitioner to approach the Trial Court with appropriate application. Thereafter, in the year 2021, this amendment petition was filed and the learned Trial Judge has observed that, it is filed by belatedly and chose to reject the petition.

5. Originally, the said suit was filed before this Court in C.S.No.868 of 2007 for the relief of partition and other relieves, and it was transferred to City Civil Court, Chennai and renumbered as O.S.No.8692 of 2011. It is pertinent to note that already a similar application was moved and it was dismissed on merits. Therefore, I am of the considered opinion that the impugned order does not suffer from any infirmity or perversity. In the result, this Civil Revision Petition stands dismissed with liberty to file a separate suit in respect of his mother's property. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition stands Closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Cases : Yes/No
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R.KALAIMATHI, J.

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To
The XVII-Additional Judge, City Civil Court, Chennai

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