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C.R.P.(NPD).No.1191 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1191 of 2017
and C.M.P.No.5681 of 2017
and C.M.P.No.16391 of 2022

Natarajan

... Petitioner

VS

1.Palaniammal

2.Karthikeyan

3.Malarkodi

4.Indirani

5.Chennappan

6.Shanmugham

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the order of the learned Additional District Judge of Krishnagiri, dated 01.02.2017 in I.A.No.14 of 2016 in O.S.No.27 of 2012 and allow the above C.R.P.



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For Petitioner : Mr.V.Nicholas

For R1 to R5 : Mr.P.Mani

For R6 : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the application filed by the respondents 1 to 5 seeking leave of the Court to withdraw the suit with a liberty to file fresh suit on the same cause of action.

2. The learned counsel appearing for the petitioner tried to assail the order passed by the Trial Court mainly on the ground that in the affidavit filed in support of leave petition, the respondents 1 to 5 have not mentioned any valid reason for withdrawing the suit with liberty to file a fresh suit.

3. The respondents 1 to 5 herein filed a suit seeking partition and other reliefs.



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4. It is settled law the cause of action for filing a suit for partition is continuous one. Therefore, the order passed by the Trial Court will not cause any inconvenience or prejudice to the petitioner. Further, the respondents 1 to 5 in their affidavit have stated that there are lot of mistakes in the plaint and as well as in the amendment petition filed by them. Therefore, they want to withdraw the suit with a liberty to file fresh suit. As mentioned earlier, the impugned order will not cause any serious prejudice to the petitioner and therefore, this Court is not inclined to interfere with the order passed by the Trial Court.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petitions are closed.

05.03.2024

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

To

The Additional District Judge,
Krishnagiri.

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S.SOUNTHAR, J.

dm

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