



WEB COPY



CRP.No.5079 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

**C.R.P. No.5079 of 2023 &
C.M.P.No.29528 of 2023**

1.Lakshamma

2.Rathnamma

... Petitioners

VS

S.Muralidharan

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final orders of the learned Principal Subordinate Judge of Hosur, dated 09.09.2022 in I.A.No.2 of 2022 in O.S.No.261 of 2013 and allow the Civil Revision Petition.

For Petitioners : Mr. V.Nicholas

ORDER

This Civil Revision Petition is filed challenging the fair and final order passed by the learned Principal Subordinate Judge of Hosur in I.A.No.2 of 2022 in O.S.No.261 of 2013 and allow the Civil Revision Petition.

2.The learned counsel for the petitioners submitted that the petitioners as plaintiffs have filed a suit in O.S.No.261 of 2013 for



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partition against the respondent herein and 5 others before the Principal Subordinate Judge, Hosur. The respondent herein is the 6th defendant in O.S.No.261 of 2013. The plaintiffs and defendants 2 and 3 are children of 1st defendant Marappa. The defendants 4 to 6 are the third party purchasers of the joint family properties belonging to plaintiffs and defendants 1 to 3. The respondent/6th defendant filed I.A.No.2 of 2022 in O.S.No.261 of 2013 seeking to represent himself by Special Power Attorney Holder and also permit the Power of Attorney Holder to conduct the case on behalf of 6th defendant, since he is suffering from chronicle arthritis. The said I.A.No.2 of 2022 was allowed by the trial Court on the ground that he was affected by chronicle arthritis.

3.He further submitted that the Power of Attorney Holder would not know regarding the facts and the issues involved in the suit and without appreciating the facts of the case in a proper perspective, the court below allowed the said petition. Hence, he prayed for allowing the civil revision petition.

4.On perusal of records, the fact reveals that the respondent is the



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6th defendant in O.S.No.261 of 2013 on the file of Principal Subordinate Judge, Hosur. Further, it reveals that the petitioners have filed the said suit for partition of the plaint schedule properties claiming 2/5th share in the plaint schedule properties. The 6th defendant was impleaded as a purchaser of the plaint schedule property. During trial, the purchaser/6th defendant filed I.A.No.2 of 2022 seeking permission of the court permitting his special power of attorney holder to conduct the suit proceedings, since he is suffering from chronicle arthritis and it was allowed by passing the impugned order. To show his bonafide, the 6th defendant, in support of his contention filed medical certificate proving that he is suffering from chronicle arthritis. Based upon that, the trial court satisfied that the 6th defendant is affected by chronicle arthritis and unable to climb steps. In these circumstances, since the contention of the respondent is supported by medical evidence, I find no infirmity in the impugned order passed by the court below. The Civil Revision Petition is devoid of merits. Hence, it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

msr
Index:Yes/no
Internet:Yes/no

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V.SIVAGNANAM, J.

msr

To
The Principal Subordinate Judge of Hosur

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05.01.2024