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C.R.P.(PD).No.4613 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4613 of 2024

and

C.M.P.No.25817 of 2024

- 1.Mohan Rajes
- 2.Gowri Pandiyanathan
- 3.Ashok Mohan Rajes

... Petitioners

..Vs..

- 1.VijayannRajes
- SoundaraRajes (Died)
- 2.DayalanRajes
- Bhanumathi Rajah (Died)
- M.S.P.Rajah (Died)
- 3.P.Jayaraj
- 4.Ulageswari
- 5.Sankareswari
- 6.Rajalakshmi
- 7.Vijayalakshmi
- 8.MadhanaRamamoorthy
- 9.SugunaMahendran
- 10.RathikaPrabu
- 11.Periyasamy Ramesh
- 12.Preetha V. Kannan
- 13.Ramraj
- 14.Aswini Ramesh Raja

... Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.09.2024 in I.A.No.11/2024 in O.S.No.116 of 2004 on the file of the III Additional District Court, Salem.

For Petitioners : Mr.R.R.Pradeep
For Mr.S.Sethuraman

For Respondents : Mr.S.Kalyanaraman

ORDER

This Civil Revision Petition arises against the order passed by the learned III Additional District Judge, Salem in I.A.No.11 of 2024 in O.S.No.116 of 2004 dated 13.09.2024.

2. I heard Mr.R.R.Pradeep for Mr.S.Sethuraman for the civil revision petitioners and Mr.S.Kalyanaraman for the contesting respondent.

3. For the purpose of disposal of this revision, I need not delve deep in to the facts of the case. Suffice it to state that O.S.No.116 of 2004 is a suit



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for partition and separate possession. The defendants have filed the written statement. Parties went for trial and evidence has also concluded.

4. At that stage, the plaintiff took out an application in I.A.Nos.7 to 9 of 2024 seeking permission of the Court (i) to receive additional evidence (ii) to recall P.W.1 and (iii) to submit reply arguments. The said application was opposed by the civil revision petitioners. It came to be allowed on 23.04.2024. Thereafter, P.W.1 had entered the witness box, marked the documents, and was also cross examined on those documents.

5. Subsequently, the defendants filed an application in I.A.No.11 of 2024 seeking to file an additional written statement. This was opposed stoutly by the plaintiffs. The learned III Additional District Judge agreed with the plaintiffs and dismissed the petition. Hence, this revision.

6. Mr.R.R.Pradeep argues that as the documents had been introduced afresh by the plaintiff pursuant to the orders in I.A.Nos.7 to 9 of 2024, they were constrained to file an application for additional evidence.



7. Per contra, Mr.S.Kalyanaraman urged that the defendants were already aware of those documents and that they had not challenged the order allowing I.A.Nos.7 to 9 of 2024. Therefore, they cannot take advantage of the said order and file an additional statement.

8. I have carefully considered the submissions of both sides.

9. The defendants are not taking any new plea in order to defeat the claim of the plaintiffs. A plea has already been raised by them regarding the deed of family arrangement and additional family arrangement deeds are unilateral. This aspect is merely being reiterated in the additional statement. Furthermore, they had also pleaded that, one Soundara had executed a “WILL” in favour of the defendants, pending the litigation, on 28.02.2008. Therefore, by allowing the additional statement, the plaintiff is not going to be prejudiced or he is not going to be fighting a new case. Both the parties have understood each other's case and have let in evidence before the Court. In order to avoid any argument that there is no plea on the “WILL's“ which has come into force pending the litigation, the defendant seek to file a



statement. In case, the suit is going to be decreed, obviously, the mother would be entitled to a share. As to how the property should devolve would still have to be proved by the respective parties.

10. That being the situation, I am of the view that there is no prejudice that is caused to the plaintiff in receiving the additional statement. The defendants are merely clarifying the position that have taken already.

11. However, I have to take into consideration the fear expressed by Mr.S.Kalyanaraman that the defendants might, under the garb of having filed an additional written statement, seek to reopen the evidence. Mr.R.R.Pradeep states, that is not the intention of the defendants. They only want the pleadings to come on record.

12. Mr.R.R.Pradeep pleads that, on account of the pendency of this revision, he could not cross examine the plaintiff on the documents in a complete manner. Hence, the evidence of P.W.1 had been closed. To obviate any further delay in the disposal of the case by filing fresh applications for



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reopen and to recall, Mr.S.Kalyanaraman states that P.W.1 will appear on 09.12.2024.

13. On that day, the defendants shall without taking any adjournment, complete the cross examination on the additional documents, which have been produced by the plaintiff pursuant to the orders in I.A.Nos.7 to 9 of 2024. The learned Judge will not adjourn the matter for enabling the defendants to cross examine the plaintiff. The defendants shall complete the cross examination on the aforesaid date. Thereafter, the learned Judge shall render a Judgment in the suit. If the defendants fail to cross examine the plaintiff on that day, the learned Judge is requested, not to entertain any application for reopen or recall or any other applications that will be filed by the either party. Litigation has been pending for nearly 20 years, that is more than sufficient reason for the Court to dispose of the suit expeditiously. The learned Trial Judge is requested to act on a web copy of this order.

14. In the light of the above discussion, the Civil Revision Petition succeeds. The order of the learned III Additional District Judge at Salem in



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I.A.No.11 of 2024 in O.S.No.116 of 2004 dated 13.09.2024 is set aside. The learned Trial Judge is requested to receive the additional statement filed along with I.A.No.11 of 2024. However, it is made clear that, neither the plaintiff nor the defendants, under the guise of this order, will be entitled to reopen the evidence and let in fresh evidence in the suit. No costs. Consequently, the connected miscellaneous petition stands closed.

2.11.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation Case: Yes/No

Note: Upload this Order by 06.12.2024



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V.LAKSHMINARAYANAN, J.

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