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CMP.No.25471 of 2024
in
CRP.SR.No.149877 of 2024

N. SATHISH KUMAR, J.

This petition has been filed seeking leave to file a civil revision petition against the decree and judgment passed in O.S.No.331 of 2022.

2. It is the main contention of the learned counsel for the petitioner that one Thangavelu has already filed a suit in O.S.No.237 of 1996 against one Chinnasamy Gounder and others based on the Will said to have been executed by one Periya Marappa Gounder. The said suit was dismissed and on appeal in A.S.No.10 of 2005, the decree and judgment passed in O.S.No.237 of 1996 has been set aside as against which the second appeal in S.A.No.139 of 2016 has been filed and an interim Order has also been passed till the date of disposal of the second appeal. Now the said Thangavelu also died during the pendency of the suit. His legal heirs have also been brought on record during the pendency of the second appeal. As the matter stood thus, one Annakodi, who is the daughter of the second respondent in S.A.No.139 of 2016, filed a suit for partition impleading the legal heirs of Thangavelu in O.S.No.331 of 2022



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before the I Additional District Judge, Coimbatore and in the first hearing itself, the suit has been decreed in terms of the Mediation Agreement. Hence, according to the revision petitioner, the entire decree is collusive, particularly when all the parties are already parties in the second appeal. Considering the nature of lis between the parties and when the suit for partition is already ceased by this Court in Second Appeal in S.A.No.139 of 2016, the parties filing a collusive suit and getting a decree in terms of the settlement arrived before mediation, in view of this Court, the petitioner is certainly entitled to challenge the decree and judgment made in O.S.No.331 of 2022.

3. Accordingly, this Civil Miscellaneous Petition is allowed and leave is granted to the petitioner to file Civil Revision Petition against the judgment and decree passed in O.S.No.331 of 2022 dated 22.08.2022 by the I Additional District Judge, Coimbatore.

12.11.2024

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