



C.R.P.(PD)No.4830 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM :

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4830 of 2024

Subramani

... Petitioner / Plaintiff

Vs.

1.Rajammal
2.Palanisamy
3.Sengottaiyan
4.Murugesan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 14.09.2024 in unnumbered I.A.Sr.No.6873 of 2024 in O.S.No.383 of 2019 on the file of the Subordinate Court, Thiruchengode and direct to number the unnumbered I.A.Sr.No.6873 of 2024 in O.S.No.383 of 2019 on the file of the Subordinate Court, Thiruchengode.

For Petitioner : Mr.Mayilnathan

For Respondents : Mr.P.Vasanthakumar



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ORDER

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This Civil Revision Petitioner seeks to set aside the docket order dated 14.09.2024 in I.A.Sr.No.6873 of 2024 in O.S.No.383 of 2019 and for a consequential direction to the learned Subordinate Judge, Thiruchengode to number the application.

2. O.S.No.383 of 2019 is a suit for partition and separate possession. The parties are the grandchildren of the original purchaser, namely, one Ramasamy Gounder. The said Ramasamy Gounder had three sons (i) Sengoda Gounder, (ii) Sellappa Gounder and (iii) Ammasi Gounder. All of them are no more. Their grandchildren are litigating before the Court, filing the suit for partition. Pending the suit, recourse to settlement prevailed and they have decided to settle the matter. They filed an application under order XXIII Rule 3 of the Code of Civil Procedure, for recording the compromise.

3. The learned Subordinate Judge, Thiruchengode returned the petition on the ground that as the original documents were not produced and the compromise cannot be recorded. Hence, this Revision.



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4. I have heard Mr.S.Mayilnathan for the civil revision petitioner and Mr.P.vasanthakumar for the respondents.

5. The Code of Civil Procedure does not contemplate upon the parties to produce the original documents at the time of recording of a settlement. In fact, had they opted to appear before the District Legal Service Authority or for referring the matter to Lok Adalat and sought for recording of the compromise, this issue not have arisen at all. Instead, the parties presented themselves before the Court and wanted to record the compromise so as to ensure a binding decree upon all of them. The Court can insist upon the appearance of the parties and the counsel, prior to the recording of the compromise. To insist upon the original documents to be produced, is slightly beyond the scope of the Code. The demand not being in terms of the Code, is set aside.

6. The learned Subordinate Judge, Thiruchengode is requested to number I.A.Sr.No.6873 of 2024. Thereafter, he shall enquire with the parties, if they had entered into the compromise on their own free will and accord. In case, they represent so, he shall pass appropriate orders in the application.

V.LAKSHMINARAYANAN,J.



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7. In view of the above, this Civil Revision Petition stands allowed.

No Costs.

03.12.2024

Index : Yes / No

NCC : Yes / No

Anu

Note to Registry: *The original of the compromise petition has been presented along with the representation and the same shall be returned to the learned counsel for the petitioner, after obtaining usual endorsement.*

To
The Subordinate Court, Thiruchengode

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