



CRP No.4683 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.4683 of 2023
and CMP.No.27807 of 2023

1.Gopinath
2.Ravichandran
3.S.Ramasubramaniam
4.R.Suganthi
5.S.Chitra
6.S.Radhakrishnan

... Petitioners

Vs.

1.K.Devaki
2.Latha
3.Venkatachalam Chettiar
4.Anthony
5.Amalorpava Mary
6.Subburama Iyer (Died)
7.Dhandapani
8.Ayyappan
9.Maragatham (died)

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 16.06.2023 passed in I.A.No.1056 of 2018 in O.S.No.473/2010 on the file of the 1st Additional Subordinate Court, Coimbatore.



CRP No.4683 of 2023

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For Petitioner

: Mr.P.Tamilavel

ORDER

This Civil Revision Petition has been filed challenging the order dated 16.06.2023 passed in I.A.No.1056 of 2018 in O.S.No.473 of 2010 on the file of the 1st Additional Subordinate Court, Coimbatore.

2. The learned counsel for the petitioners submitted that the petitioners are the defendants and the respondents are the plaintiffs in O.S.No.473 of 2010 on the file of the 1st Additional Subordinate Court, Coimbatore. The plaintiffs filed the suit for the following relief:

(i) Direct the division of the suit properties into two equal shares and to allot one such share to the 2nd plaintiff and put in her separate possession.

(ii) Grant the cost of the suit

(iii) Grant such other reliefs that the plaintiffs are entitled to under the circumstances of the case.



CRP No.4683 of 2023

WEB COPY

This Court with regard to Item-I of the suit schedule property held that it is not a joint property and therefore, Court fees to be paid in terms of Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act. Similarly, Item-II of the suit schedule property was sold to the fourth defendant on 08.03.1967 and subsequently sold to one Alamelu on 27.10.2017 and therefore, for Item-II of the suit schedule property also, Court fees has to be paid under Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act and the Trial Court has not accepted the same and challenging the same, the present Civil Revision Petition has been filed.

3. Heard the submission of the learned counsel for the petitioners and also perused the materials on record.

4. A perusal of the facts reveals that with regard to Item-I of the suit schedule property, this Court has directed to pay Court Fees in terms of Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act, vide



CRP No.4683 of 2023

order dated 23.04.2013 in CRP(PD) No.4686 of 2023. According to the petitioners, Item-II of the suit schedule property was sold to the fourth defendant on 08.03.1967 and subsequently sold to one Alamelu on 27.10.2017. In these circumstances, for Item -II of the suit schedule property, Court Fees has to be paid in terms of Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act.

5. On perusal of the impugned order, it is noted that the plaintiffs/respondents agitated and contended that they are in possession of the suit property and disputed the fact that they have sold the property and it has to be adjudicated after letting in evidence and therefore, the Trial Court has dismissed the I.A.1056 of 2018 filed by the petitioners/defendants. So whether the plaintiffs have joint ownership of Item-II of the suit schedule property has to be adjudicated after letting in evidence and this Court finds no reason to interfere with the impugned passed by the Trial Court. Anyhow the Trial Court is directed to frame the issue as to whether Item-II of the suit schedule property attracts Court Fees under Section 37(1) of the



CRP No.4683 of 2023

Tamil Nadu Court Fees and Suit Valuation Act.

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6. Accordingly, the Civil Revision Petition is dismissed with a direction to the Trial Court viz., I Additional Subordinate Court, Coimbatore to frame the issue with regard to payment of Court Fees for Item-II of the suit schedule property in terms of Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act and decide it after letting in evidence from the parties. No costs. Consequently, connected miscellaneous petition is also dismissed.

09.01.2024

Index: Yes/No
Internet: Yes/No
Jvm

To
I Additional Subordinate Court,
Coimbatore.



WEB COPY



CRP No.4683 of 2023

V.SIVAGNANAM, J.

Jvm

CRP No.4683 of 2023



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CRP No.4683 of 2023

09.01.2024