



Crp Nos. 588 and 589 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP Nos.588 and 589 of 2024 and
CMP No.2915 , 1917 of 2024

1. Meena Kumari
2. B.T. Murali
3. B.T.Amudha

... Petitioners in
both CRPs

Vs.

1. S.Shasikala
2. S.Arvind Kumar
3. S.Harish Kumar

... Respondents in
both CRPs

Prayer in CRP No.588 and 589 of 2024: Civil Revision Petitions filed under Article 227 of Constitution of India to aside the common order passed by the learned Principal Subordinate Judge, Hosur, dated 06.07.2023 in I.A.No.1/2023 and I.A.No.2/2023 in O.S.No.41/2010.

For Petitioners : Mr.K.Sathiyabal

ORDER

This Civil Revision Petition has been filed to to aside the order passed by the learned Principal Subordinate Judge, Hosur, dated 06.07.2023 in I.A.No.1/2023 and I.A.No.2/2023 in O.S.No.41/2010.

2. The petitioners herein are the plaintiffs and the respondents herein



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are the defendants in O.S.No.41/2010. The petitioners herein have filed the above said suit for partition of the suit property and also for declaration, declaring that the settlement deed dated 06.03.2007 executed in favour of the defendants 2 and 3 as null and void. In the above said suit, plaintiffs side evidence was over and on the side of the defendants, DW1 was examined in full. When the case was pending for further defendant side evidence, the first respondent has filed I.A.Nos.1 & 2 / 2023, to receive additional documents by recalling DW1. The above said petitions were allowed on 06.07.2023, on payment of costs. Challenging the same, the instant civil revision petitions have been filed.

3. Heard the learned counsel for the petitioners and I have perused the materials on record.

4. A perusal of the records shows that the suit has been filed by the petitioners herein for partition and declaration. It is the contention of the petitioners that, at the fag end of the trial, the first respondent has filed the above said applications to receive additional documents by recalling DW1, only to protract the proceedings. Hence, the same cannot be permitted. In the affidavit in I.A.Nos.1 & 2 of 2023, the first respondent has stated that,



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during the cross examination of DW1, the other side has put a question that the husband of the first respondent has no means to purchase the property; but, her husband was employed in Hindustan Aeronautics Limited from 1968 to 2006; and hence he had sufficient means to purchase the property; therefore, to prove his employment, the employee service certificate, retirement certificate have to be marked. The learned Judge, has observed as “ *It is settled position of law that the documents may be received subject to proof and relevancy of the said documents. If any objection to mark the said documents, the otherside may raise their objection at the time of marking of the documents. Hence, though the petition mentioned documents were filed belatedly, to give one more chance to prove the contentions of the petitioner, the petitions may be allowed.*” Further, since the petition mentioned documents were filed belatedly, the learned Judge has allowed the petitions on payment of costs of Rs.1,000/-.

5. When a suit is being filed for partition stating that the parties are relatives and they are having shares in the suit properties, the nature of the property has to be adjudicated for proper partition. In the above said suit, the petitioners herein have claimed joint right and have sought one share in the suit schedule property. Therefore, for proper adjudication, sufficient



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opportunities have to be given to the parties to produce the evidence with regard to the suit properties. Further, when the documents have been allowed to be marked subject to proof and relevancy, the petitioners are having opportunity to object the above documents through cross examination. Apart from that, since the documents have been filed belatedly, the petitions have been allowed by the Trial Court on payment of costs. As such, I find no infirmity to interfere in the orders passed by the learned Trial Judge.

6. Accordingly, the civil revision petitions are dismissed and the impugned orders passed by the learned Trial Judge is upheld. Consequently, connected miscellaneous petition is closed. The learned Principal Subordinate Judge, Hosur is directed to dispose of the suit in O.S.No.41/2010, within four months from the date of receipt of a copy of this order.

13.02.2024

Index:Yes/No
Internet:Yes/No
mst

To

The Principal Subordinate Judge, Hosur.



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V.SIVAGNANAM, J.

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