



C.R.P.No.3832 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.3832 of 2018
and
C.M.P. No.21294 of 2018

1. Varalakshmi W/o. Late Jayaramakrishna
2. Divya D/o. Late Jayaramakrishna
3. Harshad S/o. Late Jayaramakrishna
4. Ramachandrappa S/o. Late Venkaiah
5. Venkatalakshamma W/o. Ramachandrappa
(2nd and 3rd petitioners declared as majors and
their mother / 1st petitioner Varalakshmi was
discharged from guardianship vide order
dated 30.04.2021 in C.M.P. Nos.5857 to 5859
of 2021

... Petitioners

vs.

1. Rukmaniamma (died) W/o. Late Venkateshappa
2. Sujatha D/o.Late Venkateshappa
3. Seetha @ Geetha D/o. Late Venkateshappa
[2nd and 3rd respondents brought on record as
legal representatives of 1st respondent / deceased
Rukmaniamma vide order dated 03.10.2023 in
C.M.P. Nos.12041, 12042 and 12044 of 2022]

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure

Code, praying to set aside the fair and decretal order dated 20.11.2017 made

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in I.A. No.283 of 2014 in O.S.No.142 of 1977 on the file of the learned

WEB C District Munsif and Judicial Magistrate No.I, Hosur.

For Petitioner : Mr. G. Thangavel

For Respondents : R1 - died
Ms. V. Srimathi [for R2 & R3]

ORDER

The Civil Revision Petition is filed challenging the preliminary decree for partition passed in I.A. No.283 of 2014 in O.S. No.142 of 1977

2. It is seen from the records that a preliminary decree for half share in favour of the respondents was passed in O.S. No.142 of 1977 on 06.01.1983. Thereafter, the 4th plaintiff in the Suit, Rukmaniammal filed an application in I.A. No.283 of 2014 seeking passing of modified preliminary decree. The said application was allowed and a second preliminary decree was passed on 20.11.2017 in I.A. No.283 of 2014 allotting 1/4th share in favour of the respondents, who filed I.A. No.283 of 2014. Aggrieved by the same, the present revision petition is filed before this Court.

3. Against the preliminary decree for partition, the petitioners are



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entitled to file a regular appeal and hence the Civil Revision Petition is not maintainable.

4. In view of the availability of remedy of a regular appeal, the Civil Revision Petition is dismissed with liberty to the petitioner to file a regular appeal before the First Appellate Court. It is made clear that the petitioner is entitled to exclude the time during which the Civil Revision Petition was pending before this Court (from 26.03.2018 till the date of receipt of a copy of this order). No costs. Consequently, connected miscellaneous petition is closed.

12.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
mjs

Note: The Registry is directed to return the original impugned order to the learned counsel appearing for the petitioner.

To

The District Munsif and Judicial Magistrate No.I, Hosur.

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S.SOUNTHAR, J.

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