



CRP(MD).No.1274 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2024

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)[NPD]No.1932 of 2013

Alagappan

: Petitioner

Vs.

1.Muthuraman

2.Natchiappan

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 26.07.2013 in E.A.No.12 of 2011 in E.P.No.102 of 2008 in O.S.No.135 of 1997 on the file of the Subordinate Court, Devakottai and allow the Civil Revision Petition.

For Petitioner : Mr.AN.Ramanathan

For Respondents : No appearance

ORDER

The instant Civil Revision Petition has been filed against the order passed in a Section 47 Application vide order dated 26.07.2013.



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2.The revision petitioner / claimant is the son of the second respondent who was the defendant in a suit for specific performance instituted by the first respondent as a plaintiff. It appears that in pursuance of the decree granted for specific performance against the second respondent, an EP has been filed to get the sale deed. During such time, the petitioner being the son of the second respondent has raised a claim by stating that since the suit property is an ancestral co-parcener property, he by birth is having 1/3rd share. However, by ignoring his share, his father has entered into a sale agreement. Therefore, his right has to be protected. Whereas, the said application has been dismissed by the trial Court on the ground that there is no proof.

3.Even when this Court has put a pertinent question to the learned Counsel in respect of the proof of partition which is alleged to have been taken place during 1994, learned Counsel fairly invited the attention in respect of the family arrangement dated 24.02.1994. Admittedly, the said document is an unregistered document for which learned Counsel would submit that it is only a recording of past transaction and therefore, registration is not required. However, whether the said unregistered family arrangement could be a defence in a Section 47 application has to be construed only



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with the supportive document, because from the date of filing of the suit in the year 1997, till the claim application has been filed, no such defence had been taken. It is also pertinent to mention here that there are no proof to show that such family arrangement has been acted upon. Learned Counsel fairly submits that there are no revenue records to prove the partition. Therefore, this Court is of the firm view that the finding recorded by the trial Court in dismissing the application cannot held to be perverse and furthermore, this Court does not have any ground to deviate from the well considered finding.

4. Accordingly, this Civil Revision Petition stands dismissed, confirming the order dated 26.07.2013 passed in E.A.No.12 of 2011 in E.P.No.102 of 2008 in O.S.No.135 of 1997 on the file of Subordinate Court, Devakottai. Further, considering the long pendency of the EP, the Trial Court is directed to dispose of the EP as expeditiously as possible. There shall be no order as to costs.

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Index : Yes / No

Internet : Yes / No

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To

1.The Subordinate Judge,
Devakottai.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN, J.,

MR

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