



C.R.P.(MD).No.444 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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Siddhi Nayeema

... Petitioner

Vs

1. Aabitha

2. Abrar

3. Ajim

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside order dated 06.12.2021 made in I.A. No. 439 of 2019 in O.S. No. 65 of 2015 on the file of the Subordinate Judge, Pattukkottai.

For Petitioner : Mr.A.Ilaya Perumal,

For R1 : Mr.A.Raja Mohammed

For R2 & R3 : No Appearance

ORDER

The civil revision petition is filed to set aside the order dated 06.12.2021, made in I.A.No.439 of 2019 in O.S.No.65 of 2015, on the file of the learned Sub-ordinate Judge, Pattukkottai.



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2.The plaintiff was filed with a prayer to declare that the plaintiff is entitled to half share in the suit 'A' and 'B' scheduled properties, allot separate share of the plaintiff , put her in possession and also to declare the settlement deed, dated 17.04.2006, executed by one Mohamed Farroq in favour of the first defendant registered as Document No.533 of 2006 as null and void and the same is not binding on the plaintiff, and for declaration relating to two other release deeds.

3.The case of the plaintiff as per paragraph five of the plaint is as extracted here under:

"5. The plaintiff submits that the site as well as the building in the suit 'A' schedule property absolutely belonged to Siddhi Ayesha. She never gifted the suit 'A' schedule property to anybody muchless to Mohamed Farooq. Obviously the alleged settlement deed dated 17.04.2006 executed by Mohamed Farooq in favour of the 1st defendant must have been made only with an intention to deny the legitimate share of the plaintiff in the suit 'A' schedule property. Mohamed Farooq was only entitled to half share in the suit 'A' schedule property. But, he has created the settlement deed in respect of the entire 'A' schedule property. He is not entitled to do so. The 1st defendant is the second wife of Mohamed Farooq. She cannot claim any title over the suit 'A' schedule property on the basis of the said settlement deed dated 17.04.2006."

4.In that background, now the application for amendment is filed.



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The amendment is sought with reference to the description of the first defendant. It is the case of the plaintiff that since she has married one Mohamed Fazal Hack and without even dissolving the said marriage, she has married the said Mahmood Farooq for the second time. They want to make appropriate corrections with reference to her husband name and etc. The same is now dismissed by the trial court against which, the Civil Revision Petition is filed.

5.A perusal of the case of the plaintiff as stated above, it is seen that the plaintiff is entitled to half share in the suit properties and the said Mohammad Farooq is entitled to half share in the suit properties and the settlement deed, which is executed by him in respect of the entire extent is null and void. That does not in any manner involve the marital status between Mohammad Farooq and the first defendant. Whether she has dissolved the first marriage before her marriage with Mohammad Farooq or not, absolutely does not have any relevance with the claim with reference to the suit properties, which is made by the plaintiff.

6.Therefore, this Court finds that the application is filed only to cause embarrassment and harassment to the first defendant. Even if the plaintiff is a



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woman, still that does not give her license to harass and cause embarrassment to another woman defendant. Merely because the litigant is woman, when the matter pertains to the civil rights over the properties, unnecessarily, their family life, marriage etc, which are being dragged into which is nothing but a reflection of the chauvinistic mind set which is prevailing in the society.

7.In view of the above, this Court is of the opinion that the trial Court has rightly dismissed the application and therefore, this Court finds no merits in this petition. Accordingly, the Civil Division petition is dismissed with a cost of Rs.100/- to be paid to the respondents.

12.07.2024

NCC : Yes/No
Index : Yes / No
Internet: yes / No
LR

To

1. The Subordinate Judge,
Pattukkottai.
2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

LR

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