



C.R.P(MD)Nos.588 to 590 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)Nos.588 to 590 of 2022

and

C.M.P(MD)Nos.2478 of 2022

S.Nirmalakumari

... Petitioner/Respondent
Plaintiff
(In all cases)

Vs.

1.S.Sugunadevi

... 1st Respondent/1st Respondent
Plaintiff

2.Minor Indupraba

Represented by her mother and
natural guardian

S.Sugunadevi

... Respondents/Petitioners
Defendants
(In all cases)

PRAYER in C.R.P(MD)No.588 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 10.11.2021 made in I.A.No.1 of 2019 in O.S.No. 119 of 2018 on the file of the II Additional District Judge,



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Tiruchirappalli.

PRAYER in C.R.P(MD)No.589 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 10.11.2021 made in I.A.No.2 of 2019 in O.S.No. 119 of 2018 on the file of the II Additional District Judge, Tiruchirappalli.

PRAYER in C.R.P(MD)No.590 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 10.11.2021 made in I.A.No.3 of 2019 in O.S.No. 119 of 2018 on the file of the II Additional District Judge, Tiruchirappalli.

In All cases:

For Petitioner : Mr.Raguvaran Gopalan

For Respondents : Mr.S.Sathya Chidambaram

COMMON ORDER

These Civil Revision Petitions arise out of the order of the learned II Additional District Judge, Tiruchirappalli, dated 10.11.2021 whereby, the interlocutory application Nos.1, 2 and 3 of 2019 were allowed. The



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prayers in the said interlocutory applications were to receive an additional written statement, to re-open and recall P.W.1 respectively.

The Trial Court found that the suit is one being for partition, party should not be shunted out and all opportunity should be given to the parties and ordered those applications.

2. The learned Counsel for the petitioner would submit that when the plaintiffs are claiming right through a Will, and when a stand has been taken in the written statement that the Will is obtained by coercion, then the parties is in *lis* as to whether the Will was validly executed by the testator or not. In that view of the matter, when the plaintiffs' side evidence itself is over, the written statement now which is sought to be additionally filed contain only the details of some of the other movables and other properties which are left out to be added as schedule properties in the original suit and the consequential applications for re-opening and recall are also on the same footing. Therefore, he would submit that when the only ground which is now sought to be made is that, the suit is bad for partial partition and when the said legal position since been



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settled by this Court, there is no necessity for allowing of these applications.

3. The learned Counsel appearing on behalf of the respondents would submit that, earlier in the original written statement, the details as to the other movables and the jewels which are taken away by the plaintiffs were not mentioned and therefore, it is just and necessary to file an additional written statement and when an additional written statement is filed, it becomes necessary to cross-examine the P.W.1 and those grounds also and the Trial Court has rightly allowed the applications and this Court need not interfered with.

4. If there are some other properties / jewels, which are not claimed by the plaintiffs in the suit for partition, then this Court has already settled the issue that, the entire suit need not be dismissed for partial partition and the plaintiffs will not be entitled to or bring-forth a new suit claiming share in those properties, which are originally left out. When the defendants have not made any counter claim and the entire



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issue in the suit is only regarding the validity of the Will, I am of the view that the entire additional written statement and the consequential applications are un-necessary and as such in a belated stage of the proceedings ought not to have been allowed by the Trial Court.

5. Accordingly, all the Civil Revision Petitions stand allowed. I.A.Nos.1, 2 and 3 of 2019 shall stand dismissed. The Trial Court is requested to proceed further with the suit in accordance with law and dispose of the same as expeditiously as possible. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

22.07.2024

NCC : No
Index : No
Internet : Yes
BTR



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To

WEB COPY

- 1.The II Additional District Judge,
Tiruchirappalli.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



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D.BHARATHA CHAKRAVARTHY, J.

BTR

Order made in
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