



C.R.P.(MD)No.1088 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1088 of 2021

and

C.M.P.(MD)No.6310 of 2021

1.Sirajudeen

2.Amirunnisha

... Petitioners / Petitioners 1 & 4 / Defendants 1 & 4

Vs.

1.Saithunisha

2.Thoufekunisha

3.Azeesudeen

4.Jaibunisha

5.Shamsudeen

6.Safinisha

... Respondents 1 to 6 / Respondents /
Plaintiffs

7.Moinudeen

8.Salaudeen

9.Mooresashmi

... Respondents 7 to 9 / Petitioners 2, 3 & 5 /
Defendants 2, 3 & 5



C.R.P.(MD)No.1088 of 2021

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.04.2021 passed in I.A.No.14 of 2021 in O.S.No.76 of 2012 on the file of the 2nd Additional District and Sessions Judge, Thanjavur.

For Petitioners : Mr.M.P.Senthil

For Respondents : Mr.M.Karunanithi
for R1 to R6

ORDER

Heard both sides.

2. The defendants 1 & 4 in O.S.No.76 of 2012 on the file of the 2nd Additional District and Sessions Judge, Thanjavur are the revision petitioners. It is a suit for partition. I.A.No.14 of 2021 was filed for rejection of the plaint. It was dismissed. Challenging the same, this civil revision petition has been filed.

3. The said IA was premised on two grounds:-

(I) The plaintiffs ought to have filed an IA in an earlier partition suit (O.S.No.5 of 2007 on the file of Principal District Court, Thanjavur) instead of filing a fresh suit.

(II) The suit is barred by res judicata.



C.R.P.(MD)No.1088 of 2021

WEB COPY

3. I carefully considered the rival contentions and went through the materials on record. In O.S.No.5 of 2007, the plaintiffs herein figured as D2, D4, D5, D6, D7 & D8. The first petitioner herein figured as 3rd defendant in the said suit. It was also a suit for partition. The case ended in compromise. 'A' schedule was jointly allotted in favour of the present plaintiffs and defendants. When a joint allotment had been made, it is always open to one of the allottees to seek partition by filing a fresh suit for partition. The Court below rightly came to the conclusion that the present suit is not barred by res judicata or estoppel. The impugned order is sustained. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The 2nd Additional District and Sessions Judge,
Thanjavur.



WEB COPY



C.R.P.(MD)No.1088 of 2021

G.R.SWAMINATHAN, J.

rmi

C.R.P.(MD)No.1088 of 2021

07.08.2024