



C.R.P(MD)No.1684 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 29.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1684 of 2024

and

C.M.P(MD).No.9839 of 2024

Dharmarasu

... Petitioner

Vs.

1.Malarkodi

2.Senthil @ Periysamy

3.Thangavel

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.01.2024 passed in I.A.No.2 of 2023 in O.S.No.393 of 2015 on the file of the Additional District Munsif Court, Musiri.

For Petitioners

: Mr.T.Leninkumar

ORDER

The civil revision petition is directed against the order dated 19.01.2024 made in I.A.No.2 of 2023 in O.S.No.393 of 2014.



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2. The case of the plaintiff is that the plaintiff and his father constituted a Hindu undivided joint family. While so, taking undue advantage, his wife had moved closely with his father and when his father was unwell, a sale deed was taken from his father in the name of the first defendant, who is none other than the wife of the plaintiff. It is the further case of the plaintiff that the first defendant also executed a power of attorney in favour of the second defendant. The petitioner is an innocent person and is not very highly educated and taking advantage of the same, the petitioner was also made to sign as a witness in the power of attorney also. In any event, since the suit properties are ancestral properties, the alienation by the father during his lifetime can only bind his half share and therefore, the plaintiff has filed the suit for partition claiming his half share of the property. When the suit is pending from the year 2015, in the year 2023, this application is filed for amendment of plaint. The amendment, which is now sought for, is to declare those sale deeds and the consequential deeds with reference to his half share as null and void.

3. The learned counsel for the petitioner submits that when the petitioner is praying that the properties are all ancestral property, the petitioner's late father would be entitled only to alienate the half share belonging to him and therefore, to the extent, the sale deeds and the consequential deeds relate to the other half



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of the property are null and void, the same is only prayed to be declared as illegal.

4. A perusal of the amendment as well as the plaint, it can be seen that even under the amendment, the plaintiff is not claiming any exclusive right over the suit property. Even originally, the plaintiff has claimed that the suit property is an ancestral property and the sale deed would not be binding on him and sought for partition of his half share.

5. In view thereof, the petition, which is filed now in the year 2023, is of no consequence and cannot be permitted at the belated point of time. Therefore, I see no grounds to interfere with the fair and decreetal order of the trial Court, finding no merits, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

29.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
1.The Additional District Munsif, Musiri.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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