



C.R.P.(MD)No.59 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.59 of 2024
and C.M.P.(MD).No.307 of 2024

Asiyal Beevi

... Petitioner/1st Plaintiff

Vs.

1.Pathumuthu

2.Shariba

3.Noorjahan

... Respondent/Plaintiffs 2 to 4

4.Peer Mohideen

5.Seku Fathimal

... Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed in I.A.No.1 of 2023 in I.A.No.234 of 2007 in O.S.No.248 of 2002, dated 08.09.2023 on the file of the Principal Subordinate Judge, Tirunelveli.

For Petitioner : Mr.T.Selvan

ORDER

This civil revision petition has been filed against the fair and decreetal order passed in I.A.No.1 of 2023 in I.A.No.234 of 2007 in O.S.No.248 of 2002, dated 08.09.2023, on the file of the Principal



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Subordinate Judge, Tirunelveli.

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2.I.A.No.1 of 2023 was filed by the respondents namely Pathumuthu, Shariba and Noorjahan, who are the plaintiffs 2 to 4 in the original suit, stating that the original suit was filed by them along with this revision petitioner namely Asiyal Beevi for partition. The suit was decreed. Preliminary decree was passed declaring that the plaintiffs are entitled for 28/48 share. So final decree application was filed in I.A.No. 234 of 2007. During the pendency of the final decree application difference of opinion arose between the plaintiffs 2 to 4 and Asiyal Beevi, who is the first plaintiff. So they requested their Advocate not to proceed with the final decree application and cancelled the vakalath on 12.06.2023.

3.It is further submitted that there is an old dilapidated house in the property aged about 80 years. So they are not in a position to divide their property. In spite of repeated compromise talk undertaken between the parties, there is no result. So they want to transpose themselves as respondents. That was objected by this petitioner, stating that this



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petition was filed only to drag on the proceedings. But, no counter was filed on her side. Without noting the same, the trial Court allowed the above said petition. Aggrieved over the same, this petition is filed by the petitioner stating the very same reason of objection made before the trial Court.

4. On going through the grounds of revision and on hearing the counsel for the petitioner, this Court is not satisfied with the reasons stated by the petitioner to say that there is some illegality or irregularity has been committed by the trial Court in allowing the petition, when there is specific averments to the effect that the first plaintiff, who is the petitioner herein, is not co-operating with them to complete the final decree process. There is no other go for the respondents herein except to transpose themselves as respondents. Since the final decree proceedings is pending, no prejudice will be caused to the parties by mere transposing the parties. Only to drag on the proceedings, this revision has been filed without valid grounds. Absolutely, I find no reason to entertain this petition and issue notice to the respondents, even though request was made by the petitioner. This itself shows that they want to drag on the



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proceedings endlessly. The suit is of the year 2002. Till date final decree is not passed. Absolutely, no prejudice will be caused to the petitioner in view of the above said order. This petition deserves to be dismissed, even at the admission stage itself.

5. Accordingly, this civil revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

11.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The Principal Subordinate Judge, Tirunelveli.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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