



C.R.P(MD)Nos.3071 and 3072 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)Nos.3071 and 3072 of 2023

and

C.M.P(MD)Nos.15864 and 15865 of 2023

1.T.Karthikeyapandiyan

2.K.Pitchumanidevi

...Petitioners in both CRPs /

Plaintiffs

Vs.

G.Chithambaranathan

....Respondent in both CRPs

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 03.10.2023 passed by the Additional District Court (FTC), Tenkasi in I.A.Nos.2 and 3 of 2023 in O.S.No.19 of 2022.

For Petitioner : Mr. K.Sudalaiyandi

For Respondents : Ms. K.Vidhya

(in both CRPs)



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COMMON ORDER

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These Civil Revision Petition are filed to set aside the fair and decreetal order dated 03.10.2023 passed by the Additional District Court (FTC), Tenkasi in I.A.Nos.2 and 3 of 2023 in O.S.No.19 of 2022.

2. The facts in brief is that the suit in O.S.No.19 of 2022 is filed by the plaintiffs namely the revision petitioners herein, seeking the relief of partition and separate possession of their respective shares and for future mesne profit etc. The defendant entered appearance and filed his statement and the trial commenced. At that stage, I.A.No.3 of 2023 was taken out by this revision petitioners under Order 11 Rule 14 and Section 151 of C.P.C, directing the defendant namely the respondent herein to produce the documents which are in his custody. That came to be dismissed by the trial Court. Against which this Civil Revision Petition is preferred.



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3. In the written statement, it has been stated that in the suit property, from 1969 onwards, a Petrol Bunk is functioning in the name and style as M/s.Chidambaram Pillai Partnership Firm. The plaintiff purchased 8 shares from the owners. Since the main suit is filed for mesne profits also, the documents relating to the Firm must be ordered to be produced.

4. That was resisted by the respondent stating that those documents are not available with them. It is admitted by the defendants that a Petrol Bunk is functioning in the property. The main issue to be decided is whether the plaintiffs are entitled for partition. There is no issue with regard to the functioning of the Petrol Bunk. Moreover, it is stated by the respondent that the documents are not available with them.

5. Heard both sides.



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6. By filing this petition under Order 11 Rule 14 of C.P.C., what the petitioners want is to establish the running of the Petrol Bunk and profit and loss account. That can be looked into only at the time of final decree application. It is too a premature stage to decide the mesne profit. It has to be undertaken by a separate proceeding.

7. Learned counsel for the revision petitioner would submit that liberty may be granted to the petitioners to work out their relief at the appropriate time.

8. Such a liberty is always available to the petitioners. At the time of either final decree application or at the time of application to ascertain the mesne profit what are all steps that are available to the revision petitioner can be taken. There can be no bar for that. The order passed by the trial Court will not stand in the way of those steps to be taken by the revision petitioner at the appropriate time.



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9. With the above observations, these Civil Revision Petitions stands disposed of. No costs. Consequently, connected miscellaneous petitions stand closed.

23.02.2024

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

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To

- 1.The Additional District Court (FTC), Tenkasi.
- 2.Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J.

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