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C.R.P.No.5335 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.No.5335 of 2024
and
C.M.P.No.29621 of 2024**

Gopalakrishnan
S/o.Palanisamy

... Petitioner

Vs.

1. Yogamani
W/o.Palanivel
2. Anjaladevi
W/o.Palanisamy

... Respondents

Prayer :

Civil Revision Petition filed under Article 227 of The Constitution of India against the Fair and Final order dated 25.09.2024 passed in I.A.No.3 of 2022 in O.S.No.158 of 2018 on the file of the Sub-Judge, Paramathi and allow the above CRP.

For Petitioner : Mr.A.Prithviraj

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ORDER

This civil revision petition arises against the order passed by learned Subordinate Judge, Paramathi in I.A.No.3 of 2022 in O.S.No.158 of 2018 dated 25.09.2024. The civil revision petitioner is the second defendant in the suit.

2. The respondents herein presented O.S.No.158 of 2018 seeking the relief of partition and separate possession.

3. According to the plaintiffs, the property originally belonged to one Karuppanna Gounder. Karuppanna Gounder had two sons and a daughter. The first plaintiff is the daughter of the second son of Karuppanna Gounder namely, one Palanisamy Gounder and the second plaintiff is Palanisamy Gounder's wife.

4. The plaintiffs pleaded that Karuppanna Gounder died in the year

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2003 and his wife Pavayammal had predeceased him in the year 2001.

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According to them, on the death of Karuppanna Gounder, he left behind his legal heirs, the plaintiffs, the first defendant Chinnappan, the second defendant Gopalakrishnan and third defendant Kaliammal. Gopalakrishnan is the son of Palanisamy Gounder and Anjaladevi, the second plaintiff. They pleaded that when they made a demand for partition in the year 2017. The defendants 1 to 3 refused the same and being left with no other alternative, they presented the suit for partition. A written statement was presented by the second defendant.

5. On the basis of the pleadings, issues were framed and parties went for trial.

6. At this stage, the second defendant filed an application in I.A.No.3 of 2022 in O.S.No.158 of 2018 seeking to strike off the suit on the ground that the second plaintiff is a Schizophrenia patient. This application was resisted by plaintiffs pleading that the application is belated. On the merits of the case, they submitted that the second plaintiff is, as normal as one can



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be, and that she is being maintained by her daughter, the first plaintiff.

WEB COPY 7. On the basis of the affidavit and counter, learned trial Judge dismissed the petition to strike off. Hence, this revision.

8. I heard Mr.A.Prithviraj for the civil revision petitioner. Mr.A.Prithviraj, pleads that the second respondent / second plaintiff is a Schizophrenia patient and that the said affliction is chronic brain disorder. He adds, on account of such affliction, the second plaintiff suffers from delusions, hallucinations, disorganized speech, trouble with thinking. As the second plaintiff is mentally challenged, the suit presented by her cannot be sustained.

9. I have carefully considered the submissions of Mr.A.Prithviraj. I have gone through the records.

10. It is pertinent to point out that though a lengthy written statement was presented by the second defendant, nowhere in the statement, has he pleaded that the second plaintiff is a person who is 'mentally challenged'. It



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is not in dispute that evidence has commenced in the suit. In terms of the Code, a party would have to seek for appointment of a guardian for a minor or a mentally challenged person, if and only if such a person is shown to be suffering from the said affliction. On the contrary, the civil revision petitioner has not shown any demonstrable proof before the Court that the second plaintiff is suffering from such an issue.

11. Mr.A.Prithviraj states that the Doctor, who examined the second plaintiff has stated that in the year 2017 she was suffering from the said affliction and therefore, this points out that the second plaintiff is in fact a mentally challenged person.

12. The learned trial Judge has given cogent reasons in order to conclude as to why the evidence of Doctor cannot be relied upon for the purpose of declaring the second plaintiff as mentally challenged.

13. Furthermore, the Court has to see as to whether the person is mentally challenged on the date of presentation of the plaint. The fact that



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the person had been diagnosed as suffering from Schizophrenia in the year 2017 does not mean that she has not been cured of the said affliction and when she presented the plaint subsequently, she was not in control of her senses. The trial Judge, who had the opportunity to see the party and has taken a view that the second plaintiff is not a mentally challenged person for whom a guardian needs to be appointed.

14. When the very basis of the petition fails, the view taken by learned trial Judge cannot be taken exception too.

15. In the light of the above, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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V.LAKSHMINARAYANAN, J.,

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