
(2014) 08 MAD CK 0096

In the Madras High Court

Case No : Civil Revision Petition No. 2574 of 2014 and M.P. No. 1 of 2014

P. Rampal

APPELLANT

Vs

Krishnaveni

RESPONDENT

Date of Decision : 14-08-2014

Acts Referred:

Citation : (2014) 08 MAD CK 0096

Hon'ble Judges : R. Mala, J

Bench : Single Bench

Judgement

R. Mala, J.—The petitioners, who are the plaintiffs herein, have filed a suit for partition and separate possession of the 5/6 share in the suit property. The seventh defendant contested the same and the plaintiffs' evidence have been over. When the matter was posted for the evidence of the first defendant, he filed an application for appointment of an Advocate Commissioner and it was dismissed after hearing both sides. As against which, the petitioners have come up with the above revision petition.

2. At the time of arguments, the learned counsel for the petitioners would submit that the property has been purchased by one Thavamaniammal and Thayammal under a registered sale deed dated 2.7.1964 and settled one portion of the suit property to the first plaintiff under the settlement deed dated 17.6.1999 which was accepted and acted upon and they are in possession and enjoyment. Hence they filed the suit for partition of 5/6 share in the suit property. Admittedly, the seventh defendant alone has contested the same stating that father of the defendants 1 to 6 viz., one Kasilingam, who is the son of Thayammal and brother of the first plaintiff's mother and the second plaintiff, is the sole bread winner who purchased the property in the name of his mother and sister out of his love and affection, is disputing the share to the petitioners.

3. Admittedly, at the time of filing this revision petition, plaintiffs evidence have been over. It is appropriate to incorporate the prayer sought for which reads as follows:-

For the reasons more fully stated in the accompanying affidavit, it is prayed that this Hon''ble Court may be pleased to appoint an Advocate Commissioner to inspect and measure the schedule of property based on the sale deed dated 2.7.1964 stands in the name of first petitioner's mother and grand mother and settlement deed dated 17.6.1999 stands in the name of first petitioner and with the help of Taluk Head Surveyor, Katpadi Taluk and to file his report with plan and pass such orders as deem fit and proper under the circumstances of the case. But there is no dispute as to the identity of the property. Therefore, in such circumstances of the case, with a view to collect the materials, they have come forward with this revision, after the evidence on plaintiffs' side has been over.

4. Therefore, the Trial Court has rightly held that since there is no dispute in respect of the identity of the suit property, as the suit is for partition and separate possession of 5/6 share in the suit property and already the plaintiffs side evidence is over and since they had filed the petition only for protracting the Court proceedings that has been considered by the Trial Court and dismissed the same, hence, the impugned order does not warrant any interference. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.