



C.R.P(MD).No.1097of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.1097 of 2023

and

CMP(MD)No.5218 of 2023

D.Pushpam Ammal(Died)

1.D.Varatharaj

2.D.Suthanthiraraj

... Petitioners/Defendants 2 & 3/
Defendants 2 & 3

Vs.

1.R.Velammal

2.A.Muthukrishnan

3.A.Mariammal

4.T.N.Mohammed Nasar

5.Premavathy

6.Chandravathi

7.Selvi

... Respondents 1-3/Petitioners/Plaintiffs
... 4th Respondent/4th Respondent/4th Defendant

... Respondents 5-7/Respondents 5-7/
Proposed Defendants 5-7

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 08.03.2023 passed in I.A. No.4 of 2022 in O.S.No.586 of 2017 on the file of the I Additional District Munsif Court, Tirunelveli and allow the present Civil Revision Petition.

For petitioner : Mr.V.Balaji



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ORDER

WEB COPY This Civil Revision Petition has been filed by the petitioner to set aside the Fair and Decretal Order dated 08.03.2023 passed in I.A. No.4 of 2022 in O.S.No.586 of 2017 on the file of the I Additional District Munsif Court, Tirunelveli.

2.The petitioners who are the defendants 2 and 3 in O.S.No.586 of 2017 are aggrieved by the impugned order dated 08.03.2023 passed by the I Additional District Munsif Court, Tirunelveli, in I.A.No.4 of 2022 in O.S.No. 586 of 2017. I.A.No.4 of 2022 was filed by the plaintiffs (R1 to R3 herein) under Order 22 Rule 4 of CPC to record the name of the petitioners and the respondents 5 to 7 as the legal heirs of first defendant Late.D.Pushpam Ammal.

3.The specific case of the petitioners is that the land in question was settled in favour of the petitioners by the petitioners' father and mother vide Settlement Deed dated 03.02.2012.

4.I have considered the argument advanced by the learned counsel for the petitioner and I have perused the Court order.



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5.The relevant portion of the impugned order reads as under:-

'3) மனுவுடன் இணைந்த அபிடவிட்டில் கூறப்பட்டுள்ள காரணங்களை பரிசீலிக்கையில் உத்தேச 5 முதல் 7 எதிர்மனுதாரர்கள் 2, 3 எதிர்மனுதாரர்களின் சகோதரிகள் என்றபடியானும் அவர்கள் காலம் சென்ற 1ம் பிரதிவாதியின் மகள்கள் என்பதும் தெரிய வருவதால், அசல் வழக்கினை தீர்மானிப்பதற்கு 5 முதல் 7 எதிர்மனுதாரர்கள் அசல் வழக்கில் உரிய தரப்பினர் என நீதிமன்றம் முடிவு செய்து, அவ்வாறே தீர்மானிக்கிறது. பிராது சீர்திருத்தம் மனுவில் 5 முதல் 7 உத்தேச பிரதிவாதிகளின் சரியான விலாசத்தை 5 முதல் 7 எதிர்மனுதாரர்கள் மனுதாரர்களுக்கு வழங்க வேண்டும் என இந்நீதிமன்றம் உத்தரவிடுகிறது. 5 முதல் 7 எதிர்மனுதாரர்கள் இம்மனுவில் ஆஜராகாமல் இருந்துள்ளனர். எனவே, 2, 3 எதிர்மனுதாரர்கள் தங்களது சகோதரிகளான 5 முதல் 7 எதிர்மனுதாரர்களின் சரியான முகவரியை அளிக்க வேண்டுமென உத்தரவிடப்படுகிறது.

4) முடிவாக, இந்த மனு அனுமதிக்கப்பட்டு உத்தரவிடப்படுகிறது"

6.The petitioners are the defendants 2 & 3 in O.S.No.586 of 2017 filed by the respondents 1 to 3 herein. The suit has been filed for a declaration and for a permanent injunction.

7.During the pendency of the suit, the petitioners' mother, the first defendant namely D.Pushpam Ammal died. Therefore, the petitioners informed the respondents 1 to 3 (Plaintiffs) regarding the death of their mother, the first defendant in the above suit and also gave the names of other other legal heirs of his mother namely, the sisters of the petitioners who are residing at Chennai, Trichy and Coimbatore.



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8.The petitioners have also filed a memo dated 16.07.2022 wherein it has been stated that the petitioners are in inimical terms with their sisters whose are the proposed defendants 5 to 7. The petitioners not aware of the correct address of the proposed defendants 5 to 7. It is submitted that the Trial Court however committed a grave error in accepting the address of the petitioners' sisters (Respondents 5 to 7) as that of the address of the petitioners. Therefore, proposed to proceed of trial in O.S.No.586 of 2017 filed by the respondents 1 to 3/plaintiffs 1 to 3.

9.In my view, there is no case made out for interference. In case, the proposed defendants 5 to 7 are aggrieved, it is always open for them to file appropriate application for setting aside the order dated 08.03.2023 or consequence flowing there from.

10.Therefore, this Civil Revision Petition is liable to be dismissed. It is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

24.04.2023

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



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To

1. The I Additional District Munsif Court,
Tirunelveli.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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