



C.R.P(MD)No.313 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.07.2023

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.313 of 2018

and

C.M.P(MD)No.1471 of 2018

Pachaiammal (Died)

Singaraj (Died)

1.R.Vasantha

2.S.Kiruthika

...Petitioner/
Respondents 5 & 6/
Proposed Defendants

Vs.

1.Chinnammal

2.Palaniammal

...Respondents 1 & 2/
Petitioners 1 & 2/
Plaintiffs 2 & 3

3.Nagaraj

4.Selvakumar

...Respondents 3 & 4/
Respondents 3 & 4/
Defendants 3 & 4

5.Lakshmi

...5th Respondent/
5th Respondent/
1st Plaintiff



C.R.P(MD)No.313 of 2018

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed by the learned District Munsif, Periyakulam in I.A.No.90 of 2017 in O.S.No.209 of 2011 dated 07.12.2017.

For Petitioners : M/s.S.Sinduja
For Mr.C.Murugavel

For R1 & R2 : Mr.M.Prabhu

For R3 to R5 : No Appearance

ORDER

This civil revision petition has been filed against the order passed by the District Munsif Court, Periyakulam in I.A.No.90 of 2017 in O.S.No.209 of 2011, dated 07.12.2017.

2. The revision petitioners are the proposed parties. It appears that the plaintiffs have filed an application in I.A.No.186 of 2013 to implead one Vasantha, Kiruthika and Pachaiaammal as legal representative of the deceased Singaraj. When the said application was pending, the plaintiff filed an another application in I.A.No.90 of 2017 after a period of 4 years that the deceased Singaraj died unmarried and the alleged wife and daughter of Singaraj is not all his legal heirs. However, his sister, namely, Lakshmi colluded with the respondents and filed the impleading



C.R.P(MD)No.313 of 2018

application. They further stated that in view of such reason, the said Lakshmi to be transposed as defendant and also seeking leave of this Court to withdraw the earlier application filed in I.A.No.186 of 2013.

3. The petitioners herein are the respondents in I.A.No.90 of 2017 have filed counter statement stating that they are the legal representatives of Singaraj and that the same was categorically accepted by the plaintiffs themselves in filing an application in I.A.No.186 of 2013, they also denied the so-called collusion of one Lakshmi in bringing the proposed parties as the legal representatives of Singaraj.

4. After considering the either side submissions, the learned Trial Judge has allowed the application on the ground that if at all the proposed parties are considered to be a necessary party at the time of disposal of the trial, then the ultimate sufferer would only be the plaintiffs, therefore, the prayer of the plaintiffs/petitioners can be considered, and ultimately the petition was allowed by permitting the petitioner to withdraw I.A.No.186 of 2014.

5. Aggrieved with the order, the proposed parties have filed this civil revision petition.



C.R.P(MD)No.313 of 2018

6. The learned counsel for the petitioner/proposed parties has contended that even according to the plaint pleading, it has been admitted the existence of relationship between the deceased Singaraj and Vasantha and therefore, as a natural corollary, the plaintiffs themselves have filed an impleading application in I.A.No.186 of 2014 and in which the plaintiffs themselves have admitted that these proposed parties are the wife and daughter of the deceased Singaraj. Therefore, their objection in another I.A.No.90 of 2017 cannot be accepted and the reasons assigned by the learned Trial Judge are also cannot be countenanced. Therefore, prayed to allow the application.

7. The learned counsel for the petitioner has also invited the attention of this Court about the legal heirship certificate issued by the Thasildar, Kurinjipadi, dated 13.09.2012 and also ration card stands in the name of the petitioner, namely, Vasantha.

8. The learned counsel for the respondents 1 and 2 strongly objected the application and would contend that Vasantha and Kiruthika are not at all the legal heirs of the deceased Singaraj. Therefore, the order passed by the learned Trial Judge does not have any infirmity. Hence, he prayed for dismissal of this civil revision petition.



C.R.P(MD)No.313 of 2018

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9. From the submission of the learned counsel for the petitioner, it is apparent that even in the plaint itself, the plaintiffs have admitted that there was some relationship between the Vasantha and the deceased Singaraja and it also pleaded that patta was transferred in the name of Vasantha in respect of the some of the suit property.

10. Therefore, only in such circumstances, the plaintiffs have filed I.A.No.186 of 2014 to implead them as the legal representative. Having filed the such application, all of a sudden, filing an another application in I.A.No.90 of 2017 that too on the ground that they are not the legal heirs of the deceased Singaraj is fallacious.

11. At this juncture, the learned counsel for the respondents 1 and 2 would submit that though they referred about the relationship, they never admitted that they are the wife and children of said Singaraj. The said submission also must be given due weight-age. However, at the very threshold namely at the time of impleading, the Court must only consider the *prima facie* material as to whether they are the legal representatives of the deceased Singaraj or not.



C.R.P(MD)No.313 of 2018

12. Therefore, this Court is of the firm view that the order of the learned Trial Judge in I.A.No.90 of 2017 is liable to be interfered with.

13. In the result, the civil revision petition stands allowed by setting aside the order passed in I.A.No.90 of 2017 and threreby directing the learned trial Court to restore I.A.No.186 of 2014 on file and decide the matter according to law. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

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

- 1.The District Munsif Court,
Periyakulam.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.313 of 2018

C.KUMARAPPAN,J.

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