

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.4216 of 2014
and M.P.Nos.1 & 2 of 2015 & 1 of 2014

Elango @ Dhanalakshmi Ammal

... Petitioner

Vs.

- 1.Radha Ammal
- Malligavathy Ammal (Died)
- 2.N.Nedunchezian
- 3.S.Vanaja
- D.Elangovan (Died)
- 4.M.Sarojini
- 5.G.Mala
- 6.A.Baby @ Varalakshmi
- 7.The Secretary
Regional Transport Authority,
Salamedu, Villupuram.
- 8.The Deputy Transport Commissioner,
Subramaniyapuram, Salem.
- 9.The Collector,
Villupuram District.
- 10.V.Pandurangan
- 11.D.Satheeshkumar
- 12.Rajkumar
- 13.D.Dinesh Kumar
- 14.Gowri
- 15.Kannusamy
- 16.S.P.Raja
- 17.Chinnapillai Ammal
- 18.E.Usha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decreetal order dated 27.06.2014 made in I.A.No.287 of 2013 in O.S.No.87 of 2004 on the file of the Principal District Judge, Villupuram.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.R.S.Raveendhran (R1)

Mr.V.Sankara Narayanan (R2)

Mr.S.Kumaresan (R11 to R13)

R3 to 10, 14 to 18 - Not ready in notice

ORDER

Challenging the fair and decreetal order passed in I.A.No.287 of 2013 in O.S.No.87 of 2004 on the file of the Principal District Judge, Villupuram, the 6th defendant has filed the above Civil Revision Petition.

2.The first respondent/plaintiff filed the suit in O.S.No.87 of 2004 (previously O.S.No.103 of 1996 on the file of the Sub Court, Villupuram) for partition and for other reliefs. The said suit is being contested by the defendants on various grounds. When the suit was taken up for trial, the 6th defendant filed an application in I.A.No.287 of 2013 to transpose her as the second plaintiff in the suit. In the affidavit filed in support of the petition, the 6th defendant has stated that she came to understand that the plaintiff

and the second defendant are trying to have the matter settled between themselves and if they do so, it could be against her interest. The first respondent/plaintiff filed a vacate stay petition in M.P.No.2 of 2015 in M.P.No.1 of 2014 in C.R.P.(PD).No.4216 of 2014 wherein in paragraph no.8 she has stated that she has not entered into any settlement with the second respondent herein, who is the second defendant in the suit, nor did she intend to do so. Further, she has stated that she has not abandoned her right or claim or entered into adjustment of claim in respect of the subject matter of the suit with the second respondent. When she has specifically stated that she has no intention of entering into settlement with the second respondent, the apprehension of the 6th defendant that she would settle the matter with the second defendant cannot be believed. Further, in a suit for partition, all the parties are construed as plaintiffs. In these circumstances, the trial Court has rightly dismissed the application.

3.I do not find any reason to interfere with the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed.

4.Since the suit is pending from the year 1996, I direct the Principal District Judge, Villupuram to dispose of the suit in O.S.No.87 of 2004, on

merits and in accordance with law, within four months from the date of receipt of a copy of this order.

5.It is brought to the notice of this Court that the petition under Order 7 Rule 11 of the Code of Civil Procedure filed by the second defendant in I.A.No.544 of 2012 is pending for a long time.

6.In these circumstances, I direct the Principal District Judge, Villupuram, to dispose of the application in I.A.No.544 of 2012, on merits and in accordance with law, within one month from the date of receipt of a copy of this order.

7.In these circumstances, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
va

02.06.2015

To

The Principal District Judge,
Villupuram.

M.DURAIWAMY,J.
va

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