

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(PD)No.3941 of 2013 and  
M.P.No.1 of 2015

Leelavathi

... Petitioner

vs.

1.Poonusamy (Died)  
2.Nallammal (Died)

3.Muthammal  
4.Lakshmi  
5.Sellammal  
6.V.Kamlam  
7.V.Sivakumar  
8.Minor Divya Prabha  
9.Duraisamy  
10.Bharathi  
11.Nirmala  
12.Kavitha

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 11.09.2013 passed in Memo dated 16.08.2013 in O.S.No.134 of 2004 on the file of Additional District Judge, Namakkal.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.R.Prabhakar for  
M/s.R.Subramaniam for  
R3 to R5 and R6 and R7

R10 and R12 - Given up

**ORDER**

The revision petitioner is the 8th defendant in O.S.No.134 of 2010 on the file of Additional District Judge, Namakkal. It is a partition suit.

2. It is stated by the learned counsel appearing for respondents 6 and 7 that they are now contesting the suit, as they have purchased the shares of respondents 3 to 5. The learned counsel would further submit that he also represents on behalf of respondents 3 to 5. The learned counsel submits that he has no objection in allowing this petition.

3. In view of the said submission made by the learned counsel appearing on behalf of respondents 3 to 5 and 6 and 7, the memo passed by the Trial Court, dated 11.09.2013 is set aside. Since the Memo dated 11.09.2013 is now set aside, the petitioner/8th defendant could cross examine the plaintiffs' witnesses.

4. In the facts and circumstances of the case, without expressing anything on the rights of the parties, the Trial Court is directed to pass preliminary decree on merits, if it comes to the conclusion that the plaintiffs have right over the properties and if it comes to the conclusion that the plaintiffs have no right over the properties, the suit would also be rejected, within a period of nine months.

The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2015

Index : Yes/No  
svki

To

The Additional District Judge, Namakkal.

**D.HARIPARANTHAMAN,J.,**

svki

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**29.09.2015**