



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.07.2015

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

C.R.P (PD) (MD) Nos.571 and 1101 of 2013

and

M.P (MD) Nos.1 of 2013 and 1 of 2014

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C.R.P (PD) No.571 of 2013:

1.Tamilselvan

2.Poobalan

3.Kannathal

.. Petitioners/Respondents 2 to 4/Defendants

Vs.

1.Vetri Selvi

2.Malar

3.Ragadevi

4.Ponmani

.. Respondents 1 to 4/Petitioners/3rd parties

5.Balasubramanian

.. Respondent No.5/1st respondent/Plaintiff

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 22.01.2013 made in I.A.No.1236 of 2012 in O.S.No.136 of 2009 on the file of District Munsif Court, Sivagangai.

For Petitioner : Mr.A.Arumugam

For Respondent Nos.1 to 4:Mr.K.Ramesh Durairaj

For Respondent No.5 :M/s.J.Ananthavallai

C.R.P (PD) No.1101 of 2013:

1.Tamil Selvan

.. 1st Petitioner/1st respondent/1st defendant

Vs.

1.Balasubramanian

..1st Respondent/Petitioner/Plaintiff

2.Poobalan

3.Kannathal

.. Respondents 2 & 3 /Respondents 2 & 3/
Defendants 2 & 3

Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 22.01.2013 made in I.A.No.1497 of 2012 in O.S.No.136 of 2009 on the file of the District Munsif Court, Sivagangai and allow the C.R.P and to allow the said application as prayed for.

For Petitioner : Mr.A.Arumugam

For Respondent No.1 : M/s.J.Ananthavallai

For R-2 & R-3 : No Appearance

COMMON ORDER

The fifth respondent in C.R.P (MD) No.571 of 2013, filed a suit for partition before the District Munsif Court, Sivagangai in O.S.No.136 of 2009. It was a suit for partition in respect of the properties of deceased Poomayil and her brother Rajangam.



2. During the currency of the suit, the respondents 1 to 4 filed an application for impleading them as defendants. The application was allowed by the learned trial Judge. Feeling aggrieved by the said order, the petitioners are before this Court.

3. The learned counsel for the petitioners contended that while considering the application filed by the respondent Nos.1 to 4, the learned trial Judge virtually granted a decree.

4. The learned counsel for the fifth respondent justified the impugned order.

5. The learned trial Judge entertained the application for impleading. The learned trial Judge by impleading the parties, has not decided the substantial issue. Even after impleading, it is always open to the petitioners to contend that the newly impleaded parties are not entitled to share. I am therefore of the view that the trial Judge was perfectly correct in allowing the application for impleading. The learned trial Judge by allowing the application, made certain observations, which would go to the root of the matter. The learned trial Judge was not correct in making such observations with regard to the merits of the matter. There was no need to make such observations.

6. In view of the fact that the application before the learned trial Judge was one for impleading, I am of the view that all those findings should be set aside.

7. In the result, the order dated 22.01.2013 in I.A.No.1497 of 2012 in O.S.No.136 of 2009 on the file of the District Munsif Court, Sivagangai, is confirmed. The trial Judge is directed to decide O.S.No.136 of 2009 on merits and as per law without in any way being influenced by the observations made in the order, dated 22.01.2013 in I.A.No.1497 of 2012.

8. The Civil Revision Petitions are disposed of with the above observation. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif Court, Sivagangai.

+2ccs to M/s.Ajmal Associates, SR.Nos.36997 and 36998

+2ccs to M/s.J.Anandhavalli, Advocate, SR.Nos.36809 and 36808

pm

RL/6 c- 27/7/2015

C.R.P (PD) (MD) Nos.571 and 1101 of 2013