

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP(PD)No.3282 of 2014
and M.P.No.1 of 2014

M.Dhanalakshmi ... Petitioner

Versus

1. M.Sundaramoorthi
2. M.Krishnamoorthi
3. K.Paramsivam
4. Rathinam
5. K.Saranya
6. K.Arunkumar

... Respondents

This petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.06.2014 made in I.A.No.146 of 2014 in O.S.No.343 of 2011 on the file of the Principal District Munsif Court, Tiruchengode.

For Petitioner	:	Mr.D.Gopal
For R1	:	Mr.N.Manoharan
For R2 to R4	:	No appearance
For R5 and R6	:	Not ready

ORDER

The petitioner filed an application before the Trial Court in O.S.No.343 of 2011 to implead her as a party. The application was dismissed by the Trial Judge. Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner submitted that the petitioner was not a party in the earlier suit in O.S.No.350 of 1990 and as such any order made in the suit would not bind her. The petitioner was therefore justified in filing the application. The learned Trial Judge without ascertaining the backgrounds dismissed the application.

3. The learned counsel for the respondents justified the impugned order.

4. There is no dispute that the petitioner was not a party to the earlier suit in O.S.No.350 of 1990. The father of the petitioner initially filed a suit for partition against his two brothers. Subsequent to the preliminary decree in the said suit, the matter was settled among the respondents 1 and 2 and the father of the petitioner in and by which the suit property was allotted to the respondents 1 and 2. Thereafter, appeal filed against the Judgment and Decree passed in O.S.No.350 of 1990 was compromised.

5. The first respondent filed the suit in O.S.No.343 of 2011 against the other respondents praying for a decree of partition. The petitioner claimed that she was not given her legitimate share at any point of time. The petitioner therefore filed the application. While rejecting the application, the learned Trial Judge miserably failed to note that the petitioner was not a party to the

suit at any point of time. I am of the view that the petitioner is entitled to succeed.

6. The order dated 10.06.2014 in I.A.No.146 of 2014 is set aside. The application for impleading is allowed.

7. The Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2016

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To

The Principal District Munsif Court,
Tiruchengode.

K.K.SASIDHARAN, J.

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