

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1570 of 2016

&

C.M.P.No.8445 of 2016

Natarajan

... Petitioner

vs

1.Palaniammal

2.Karthikeyan

3.Malarkodi

4.Indirani

5.Shanmugham

6.Chennappan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India
praying to set aside the order passed in I.A.No.15/2015 in O.S.No.27 of 2012
dated 31.08.2015 on the file of Additional District Judge, Krishnagiri.

For Petitioner : Mr.S.N.J.Hariharan
for
Mr.V.Nicholas

For Respondents : No Appearance

ORDER

This revision challenges the order of learned Additional District Judge, Krishnagiri, passed in I.A.No.15/2015 in O.S.No.27 of 2012 dated 31.08.2015.

2. Respondents 1 to 4 moved O.S.No.27 of 2012 on the file of Additional District Judge, Krishnagiri, seeking partition of joint family properties. In the plaint, they had informed of the first respondent/first plaintiff and fourth respondent/ plaintiffs 1 and 4 and the petitioner/first defendant and fifth respondent/second defendant being the children of K.C. Periyasamy. They had also informed of respondents 2 and 3/ plaintiffs 2 and 3 being the children of a deceased daughter of K.C.Periyasamy. They had informed that the father of the plaintiffs 2 and 3 was also deceased. Respondents 2 and 3/plaintiffs 2 and 3 had been shown to be the son and daughter of one Chennappan, who in the plaint had been informed to be deceased. Without seeking any amendment of the plaint, the respondents 1 to 4 moved I.A. No.15 of 2015 informing that in the plaint mistakenly stated that their father Chennappan was no more and sought to implead one Chennappan s/o Chinnappa Gounder as 5th plaintiff in the action. On such application being allowed, the first defendant has moved the present revision.

3. Heard the learned counsel for petitioner. Despite service, the respondents are not before this Court.

4. Learned counsel for petitioner submitted that without seeking amendment of the plaint the respondents 1 to 4/plaintiffs 1 to 4 had moved an application in direct contradiction of the plaint averment towards including one Chennappan as party plaintiff. The said Chennappan was an absolute stranger who had nothing to do with the family. In any event R.15 of the Civil Rules of Practice had not been complied with. R.15 of Civil Rules of Practice reads thus:

“15. Adding plaintiff or next friends. If an application is made to add any person as plaintiff, or as the next friend of a plaintiff, he shall either appear in person, in which case his consent to be so added shall be recorded by the judge in writing or a written consent thereto signed by him and authenticated by a person authorised to take affidavits, shall be filed in court.”

In the absence of compliance with the above rule, this Court would allow the present revision and the order passed in I.A.No.15 of 2015 on the file of Additional District Judge, Krishnagiri shall stand set aside. However, this Court makes it clear that it would be open to the plaintiffs to move both amendment petition as also impleading of the said Chennappan as a party plaintiff after duly complying with the requirements of R.15 of Civil Rules of

C.T.SELVAM, J

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Practice. It always will be open to the petitioner to contend that the said Chennappan is not the father of the respondents 2 and 3 and that he had nothing to do with the family. If raised, Court below would have to decide such issue on merits. No costs. Connected miscellaneous petition is closed.

13.07.2016

Index:yes/no

Internet:yes

To

The Additional District Judge, Krishnagiri.

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