

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3546 of 2016

1.K.Kantha

2.Savithiri

3.Jeevarathinam

4.Madanraj

5.Manimaran

6.Anitha

...Petitioners

versus

G.Krishnan (Died)

P.Nirmala

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.7366 of 2015 in O.S.No.3752 of 2009 dated 29.01.2016 on the file of the VI Additional Judge, City Civil Court at Chennai.

For Petitioners : Mr.M.Ganeshan

ORDER

The petitioners filed a suit in O.S.No.3752 of 2009 before the VI Additional Judge, City Civil Court, Chennai, praying for a decree of partition. The suit was filed against one G.Krishnan, who is the brother of the first petitioner. Since there was no contest, the Trial Court passed a preliminary decree. Thereafter, the petitioners filed a petition

for final decree.

2. The respondent filed an application before the Trial Court to implead her as a party with a contention that notwithstanding the fact that she is also the daughter of Thiru.Govinda Naciker, she was excluded from the array of parties.

3. The application was opposed by the petitioners on the ground that even if respondent is the daughter of Thiru.Govinda Naciker, on account of her marriage with a person from another community and her conversion to a different religion, she is not entitled to a share.

4. The learned Trial Judge having found that the respondent is the daughter of Thiru.Govinda Naciker allowed the application. The order is under challenge in this Civil Revision Petition.

5. The learned counsel for the petitioners contended that the respondent has not produced any document to substantiate her contention that she is entitled to a share in the property.

6. The plaint filed in O.S.No.3752 of 2009 and the petition filed

by the respondent in I.A.No.7366 of 2015 clearly shows that it was to partition the property left by Thiru.Govinda Naciker, the suit in question was filed. There is no dispute that the respondent is the daughter of Thiru.Govinda Naciker. The petitioners for reasons best known failed to implead the respondent as a party to the civil suit. It was only when the respondent came to know about the institution of the application filed by the petitioners, she filed the application in I.A.No.7366 of 2015 for impleading.

7. The question as to whether the respondent is entitled to a share in the property is essentially an issue to be decided by the Trial Court on the basis of evidence. However, it cannot be said that the respondent is not a necessary party for an effective adjudication of the matter.

8. The learned Trial Judge having found that the respondent is the daughter of Thiru.Govinda Naciker and the suit was filed to partition the property left by him, rightly allowed the application filed by the respondent. I do not find any error or illegality in the order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

K.K.SASIDHARAN, J.

(svki)

9. In the up shot, I dismiss the Civil Revision Petition. No costs.

18.11.2016

Index:Yes/No

svki

To

The VI Additional Judge,
City Civil Court at Chennai.

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