

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD) No.715 of 2013  
and M.P.No.1 of 2013

B.Raja

... Petitioner

Vs.

1.S.Vasudevan @ Madhura Vasu Anandan

2.R.Srinivasa Naicker

3.Loganayaki Ammal

4.S.Boopathy

5.S.Venkatesan

6.Mangalakshmi

7.M.Vijayalakshmi

8.S.Bagyalakshmi

9.N.Gnanammal

10.Sangeetha

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of fair and decretal order dated 06.09.2012 and made in I.A.No.160 of 2012 in O.S.No.1105 of 2004 on the file of the Principal District Munsif, Vellore.

|                 |   |                               |
|-----------------|---|-------------------------------|
| For Petitioner  | : | Mr.V.Bhiman                   |
| For Respondents | : | Mr.J.Ashok for R1             |
|                 |   | Mr.P.Rajavelu for Respondents |
|                 |   | 3 to 8.                       |
|                 |   | RR2, 9 & 10 given up          |

**ORDER**

The petitioner is the proposed defendant in the suit. The suit in O.S.No.1105 of 2004 was filed for declaration and also partition by the first respondent and the suit is in the trial stage. The petitioner filed I.A.No.160 of 2012 for impleading him in the suit in his capacity as a legal heir of the third defendant one Mr.S.Boopathy. The trial Court dismissed the application only on the ground that the petitioner has stated that he is the son of the fourth defendant and the counter filed by the respondent states that the petitioner is the son of the third defendant. Therefore, there is a mistake. Further it is contended that Sl.Nos. in the cause title have not been furnished by the counsels at the time of filing of the petition. Therefore, there is a confusion in stating the Sl.Nos. and instead of third respondent, they have mistakenly stated as fourth respondent. The mistake occurred due to the information mentioned in the Sl.Nos. in the application filed for impleadment.

2. The respective counsels for the petitioner and the respondents have not disputed the fact that there were no Sl.Nos. in the application for impleadment while filing the application and further, they have not disputed that the third defendant and the plaintiff are brothers. This typographical mistake was committed by the petitioner while filing the I.A. seeking impleadment. Due to this mistake, the right of the parties for effective

adjudication of the suit cannot be denied. The respective parties have got their rights to adjudicate the suit in an effective manner and moreover, it is a suit for partition.

3. Under these circumstances, the order passed by the District Munsif Court, Vellore on 06.09.2012 in I.A.No.160 of 2012 in O.S.No.1105 of 2004 is set aside. The Civil Revision Petition is allowed.

4. At this juncture, the respective counsel represented that the suit was filed originally in the 2002 in O.S.No.301 of 2002 and subsequently transferred and re-numbered as O.S.No.1105 of 2004 and the same is pending for about 14 years and a direction may be given for earlier disposal of the suit.

5. Considering the fact that the suit is pending for about 14 years, this Court directs the trial Court to take up the suit for hearing and dispose of the same as early as possible, preferably within a period of six months from the date of receipt of a copy of this order. No costs. The Miscellaneous Petition is closed.

07.10.2016

vsi2  
To  
The Principal District Munsif,  
Vellore.

S.M.SUBRAMANIAM, J.

vsi2

C.R.P. (PD) No.715 of 2013

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