

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1841 of 2017
& C.M.P.No.8834 of 2017

S.P.Ramani

.. Petitioner

Vs.

1. Balanagalakshmi
2. S.N.Balapattabi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.04.2017 made in I.A.No.1469 of 2016 in O.S.No.2 of 2007 on the file of the III Additional District and Sessions Court at Gobichettipalayam.

For Petitioner : Mr.A.Tamilvanan for
Mr.A.Veerasamy

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 12.04.2017 made in I.A.No.1469 of 2016 in

O.S.No.2 of 2007 on the file of the III Additional District and Sessions Court at Gobichettipalam.

2. The petitioner is wife of the second respondent and first respondent is sister of the second respondent. The first respondent is the plaintiff, second respondent is the defendant and petitioner is the third party in O.S.No.2 of 2007. The first respondent filed the suit for partition against the second respondent. The second respondent filed the written statement on 12.01.2007. The first respondent has filed I.A.No.1469 of 2016 to implead the petitioner as a second defendant in the suit on the ground that item No.9 in the suit property is purchased in the joint name of the petitioner and the first respondent by the father of the respondents. Therefore, the petitioner is a necessary and proper party to the suit in O.S.No.2 of 2007 in view of the fact that the petitioner is the joint owner of item No.9 of the suit property.

3. The petitioner filed counter affidavit and opposed the said application and submitted that she is not a member of the joint family property and she cannot be impleaded as a party defendant as the claim against the petitioner is barred by limitation and

application filed under Order I, Rule 10 of C.P.C., after 12 years is not maintainable.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and the fact that petitioner and the first respondent are the joint owners in item No.9 of the suit property, allowed the application holding that the petitioner is a proper and necessary party to the suit.

5. Heard the learned counsel appearing for the petitioner and perused the material available on record.

6. The contention of the learned counsel for the petitioner is that the claim of the first respondent is barred by limitation and she has to file separate suit to establish her right and the issue raised by the first respondent cannot be decided in the present suit. The learned Judge failed to see that the petitioner is not a member of the joint family property.

7. The contentions raised by the petitioner are without merits. The first respondent filed the suit for partition against the

second respondent/her brother. She included item No. 9 of the suit property for partition. The said property is jointly owned by the petitioner and the first respondent. To decide the issue as to whether the first respondent is entitled to have share in the said property can be decided only in the presence of the petitioner, who is the joint owner of the property.

8. The learned Judge considering all the aspects in proper perspective manner, allowed the application by giving cogent and valid reasons. There is no irregularity or illegality warranting interference by this Court with the order of the learned trial Judge, dated 12.04.2017.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2017

Index : Yes/No

asi/kj

V.M.VELUMANI, J.

asi/kj

To
II Additional District and Sessions Court,
Gobichettipalam.

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