

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-04-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**C.R.P. PD No.552 of 2017
and CMP No.2826 of 2017**

1.Manjula
2.Minor Ramar
3.Minor Lakshmanan
4.Minor Vijayakumar ... Petitioners

[Minor petitioners 2 to 4 are
represented by their natural
guardian and mother 1st petitioner]

Vs

1.Tamilarasi
2.Sivakumar
3.Packiyalakshmi
4.Dhanalakshmi
5.Muthulakshmi
6.Tamilselvi ... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 20.10.2016 made in I.A.No.382 of 2016 in O.S.No.87 of 2016 on the file of the Court of the II Additional District Munsif Court, Vridhachalam.

For Petitioners : Mr.C.Munusamy

ORDER

The petitioners are the plaintiffs in O.S.No.87 of 2016 filed on the file of the II Additional District Munsif Court, Vridhachalam against the respondents 1, 2 and 7 others claiming that they are entitled to receive all the benefits payable to late Srinivasan as wife and children of late Srinivasan. They also prayed for interim injunction restraining defendants 3 to 9 from issuing any legal heirship certificate to the respondents 1 & 2.

2. The respondents filed I.A.No382 of 2016 for impleading the respondents 3 to 6 as parties to the suit, i.e defendants 10 to 13. According to the respondents, respondents 3 to 6 are daughters of late Srinivasan and the first respondent is the only wife of late Srinivasan. The petitioners have filed suit against the respondents 1 & 2, without impleadings the respondents 3 to 6. Unless the respondents 3 to 6 are impleaded as party defendants, their interest will not be adjudicated.

3. The petitioners filed counter opposing the said application and submitted that the respondents 1 & 2 are not the legal heirs of late Srinivasan and the respondents 3 to 6 in the circumstances are not necessary parties to the suit. The respondents must prove by document that they are the wife and children of late Srinivasan and without any

such documentary proof, the respondents 3 to 6 cannot be impleaded as defendants 10 to 13 in the suit. The respondents 3 to 6 are strangers to late Srinivasan.

4. The learned Trial Judge, considering the averments in the affidavit and counter affidavit and the materials on record, allowed the application holding that whether the respondents 3 to 6 are the daughters of late Srinivasan or not can be decided only after considering the evidence let in by the parties. Against the said order, the present civil revision petition is filed.

5. Heard the learned counsel for the petitioners and perused the materials available on record.

6. The petitioners have filed the suit claiming that they alone are entitled to receive all the benefits payable to late Srinivasan. They have also prayed for interim injunction restraining defendants 3 to 9 from issuing any legalheirship certificate to the respondents 1 & 2. The respondents filed application for impleading them as defendants 10 to 13 in the suit on the ground that they are the daughters of late Srinivasan. If really the respondents 3 to 6 are the daughters of late Srinivasan, their non-inclusion will affect their right to claim their share

in the amount payable to late Srinivasan. Whether the respondents are wife and children of late Srinivasan or not and whether the petitioners alone are the wife and children of late Srinivasan can be decided only after conclusion of trial by appreciating the evidence let in by the parties. The learned Trial Judge has considered these aspect in a proper and perspective manner by exercising the powers conferred upon him. Hence, I do not find any illegality or irregularity in the order passed by the Trial Court.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

17.04.2017

Speaking/Non-speaking order
Index : Yes/No
rgr

To

The II Additional District Munsif,
Vridhachalam.

V.M.VELUMANI, J.

rgr

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