

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(NPD)No.1496 of 2015
and M.P.No.1 of 2015

1.P.K.Vasudevan
2.K.Ezhilmani
3.K.Madhivannan

.. Petitioners

Vs.

1.Kanchana
2.M.K.Kalathi
3.Sumathi

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code against the order and decree dated 02.02.2015 made in I.A.No.1072 of 2014 in I.A.No.666 of 2012 in O.S.No.175 of 2004 on the file of the District Munsif Court, Tiruttani.

For Petitioners : Mr.A.Gouthaman

For R1 to R3 : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 02.02.2015 made in I.A.No.1072 of 2014 in I.A.No.666 of 2012 in O.S.No.175 of 2004 on the file of the District Munsif Court, Tiruttani.

2.The first respondent is the plaintiff and respondents 2 and 3 are the defendants in O.S.No.175 of 2004. According to the first respondent, she filed the said suit against the respondent 2 & 3 for partition, claiming 1/3 share in A and B Schedule properties. A preliminary decree was passed by the judgment and decree dated 29.10.2007, granting 1/3 share in the A Schedule property alone and the suit was dismissed with respect to B Schedule Property. The first respondent filed I.A.No.666 of 2012 for passing of final decree. The petitioners filed I.A.No.598 of 2014 to implead them as party defendants in the suit. The said application was allowed on 28.10.2014. Subsequently, the first respondent filed I.A.No.1072 of 2014 for amending the final decree application in consequence to allowing the application for impleading the petitioners.

3.The petitioners filed counter affidavit and opposed the said application on the ground that without specifying the shares of the petitioners, final decree application cannot be amended to implead the petitioners.

4.The learned Judge allowed the application holding that first respondent contended that petitioners are not entitled to any

share in the property and whether the petitioners are not entitled to any share in the property or whether they are entitled to any share can be decided only in the final decree application.

5. Against the said order dated 02.02.2015 made in I.A.No.1072 of 2014 in I.A.No.666 of 2012 in O.S.No.175 of 2004, the petitioners have come out with the present Civil Revision Petition.

6. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice is served on the respondents and their names are printed in the cause list, there is no representation either in person or through counsel.

7. The first respondent has filed the present application for amending the final decree application to implead the petitioners as defendants 3 to 5 in the suit. From the materials available on record, it is seen that final decree application is of the year 2012. The petitioners were impleaded as defendants by the order dated 28.10.2014 in I.A.No.598 of 2014, after filing application for passing final decree. In view of the fact that the petitioners were impleaded

as defendants in the suit, the present application is only a consequential amendment, the contention of the learned counsel for the petitioners that without deciding their share in the suit property, they cannot be impleaded in final decree is without merits. The learned Judge has stated that the share if any, to which the petitioners are entitled to can be decided in the final decree application and allowed the application. In the circumstances, there is no reason or circumstances, warranting interference by this Court with the order of the learned Judge dated 02.02.2015.

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

Index:Yes/No
gsa

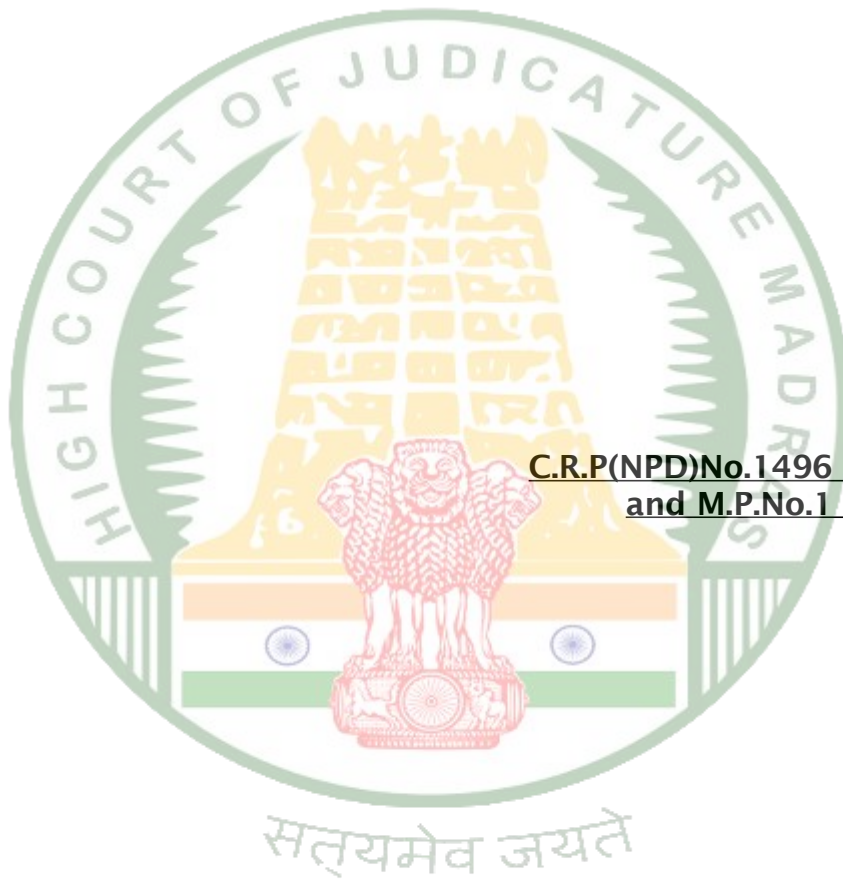
13.11.2017

To
The District Munsif,
Tiruttani.

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V.M.VELUMANI,J.

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