

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2017

CORAM

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1963 of 2009
and M.P.No.1 of 2009

Amirthammal (died)

1.M.Ponni
2.Karupayiammal

.. Petitioners

Vs

1.Lakshmi
2.Ganesan
3.Minor.Jamyna @ Parvathi
4.Jayaraman

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of C.P.C, against the order dated 19.01.2009 in memo filed by the petitioners in I.A.No.132 of 2005 in O.S.No.277 of 2003 on the file of the Subordinate Court, Ranipet.

For Petitioners : Mr.A.Gowthaman

ORDER

This Civil Revision Petition has been filed against the order dated 19.01.2009 in memo filed by the petitioners in I.A.No.132 of 2005 in

O.S.No.277 of 2003 on the file of the Subordinate Court, Ranipet.

2. The petitioners are the defendants 2 & 3, the respondents 1 to 3 are the plaintiffs and fourth respondent is the fourth defendant in O.S.No.277 of 2003 on the file of the District Munsif Court, Wallajahpet. The respondents 1 to 3 filed suit against one Amirthammal, petitioners and one Jayaraman for partition. Pending suit, the first defendant/Amirthammal died on 12.12.2006. The petitioners filed a memo for recording the petitioners as the legal heirs of the said Amirthammal stating that the first defendant/Amirthammal died intestate and the petitioners are her only legal heirs.

3. The respondents filed objection to the memo stating that the first respondent is the wife of one Subramani, the pre-deceased son of Amirthammal and the respondents 2 & 3 are the son and daughter of the said Subramani. Therefore, they are also the legal heirs of the said Amirthammal.

4. Before the learned Judge, the petitioners marked death certificate of the said Amirthammal and legal heirship certificate as Exs.P1 and P2. The respondents marked Exs.R1 to R4, the patta pass Book issued to Subramani, voter I.D cards of the respondents 1 & 2 and ration card issued to Subramani. No oral evidence was let in by

both the parties.

5. The learned Judge considering the memo filed by the petitioners, objection filed by the respondents and the documents filed by the parties, rejected the memo holding that the respondents have to prove that they are the wife and children of Subramani, the pre-deceased son of Amirthammal and the legal heirs of Amirthammal can be decided only after full fledged enquiry and trial.

6. Against the order dated 19.01.2009 in the memo filed by the petitioners in I.A.No.132 of 2005, the present Civil Revision Petition is filed by the petitioners/defendants 2 & 3.

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

8. From the records, it is seen that the petitioners have filed death certificate of Amirthammal and legal heirship certificate to substantiate that they are the only legal heirs of Amirthammal.

9. On the other hand, the respondents 1 to 4 have filed documents to prove that Subramani is a son of Amirthammal, who pre-deceased his mother/Amirthammal and they are the legal heirs of Subramani and therefore, they are also the legal heirs of

Amirthammal.

10. From the order of the learned Judge, it is seen that the learned Judge has not decided that the respondents are also legal heirs of the deceased Amirthammal. The learned Judge has rejected the memo only on the ground that the respondents have filed documents to show that the first respondent is the wife and other respondents are the children of pre-deceased son of Amirthammal and the legal heirs of Amirthammal can be decided only after full fledged enquiry and trial.

11. In the circumstances, the learned Judge considering all the above aspects in proper perspective, rejected the memo. There is no illegality or irregularity in the order of the learned Judge dated 19.01.2009 warranting interference by this Court.

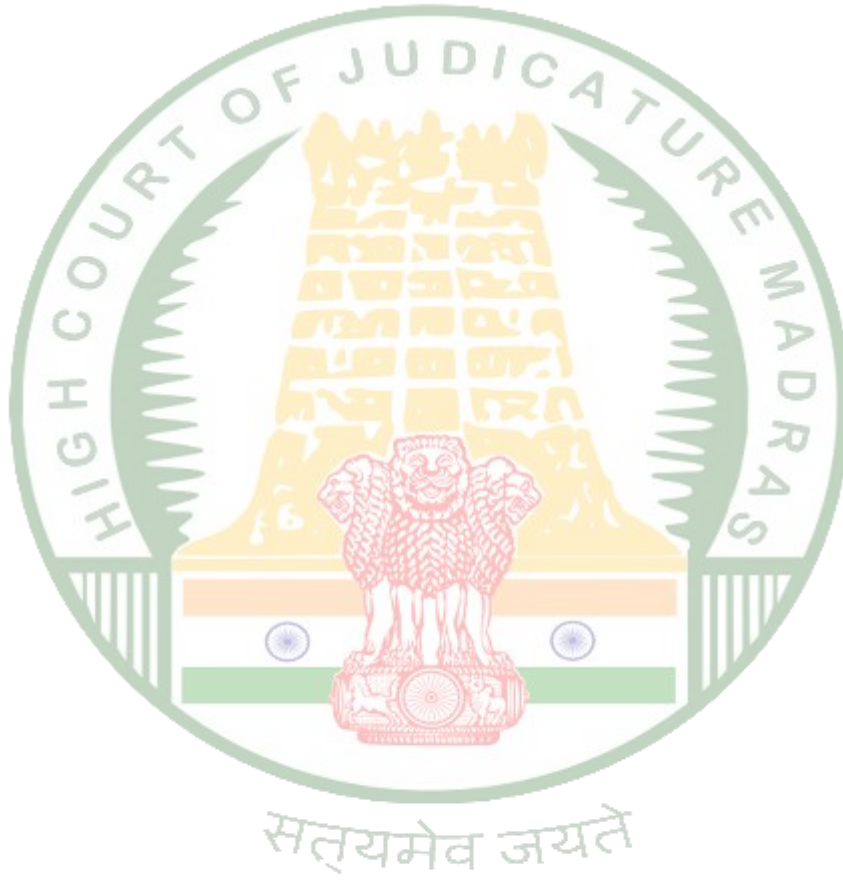
12. In the result, this Civil Revision Petition is dismissed. The suit is of the year 2003 and the learned Judge is directed to dispose the suit in O.S.No.277 of 2003 as expeditiously as possible in any event not later than three months from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petition is closed.

02.08.2017

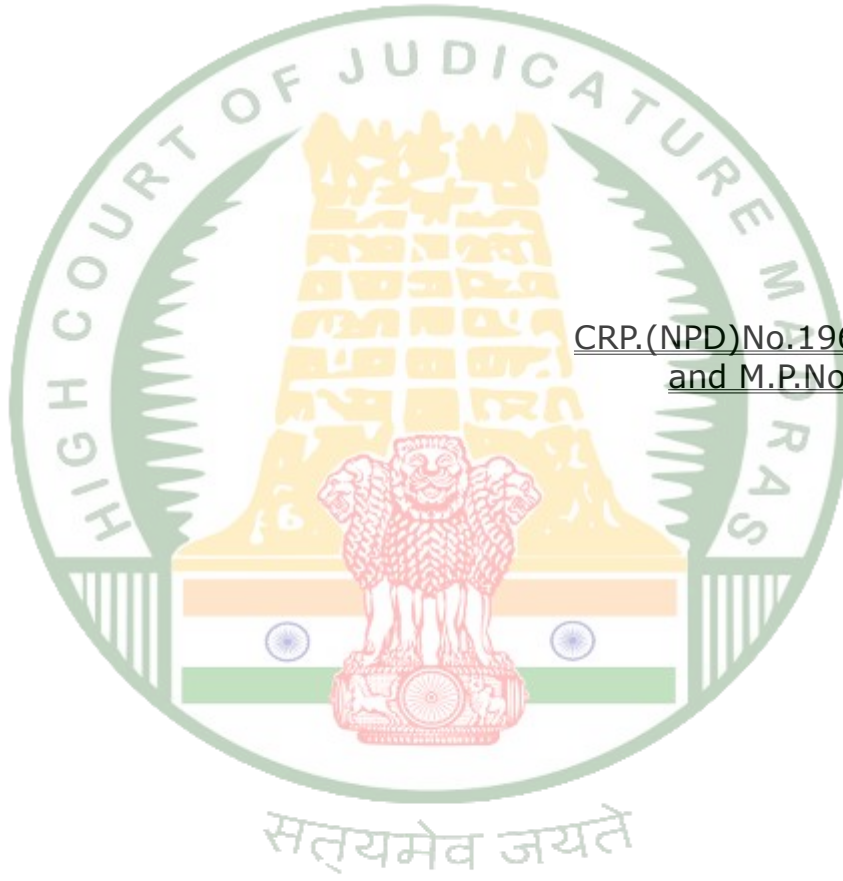
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Index:Yes/No

To

The Subordinate Judge,
Ranipet.



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