

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2486 of 2010
& M.P.No.1 of 2010

Rajendiran

.. Petitioner

Vs.

1.Ramian
2.Chockalingam
3.Kannaian
4.Viswanathan
5.Pavunraja
6.Chakkarai
7.Bakkiyam
8.Murugan
9.Raja @ Rajamanickam

.. Respondents

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India, against the fair and decreetal order dated 19.04.2010, made in I.A.No.497 of 2009 in O.S.No.377 of 2004, on the file of the District Munsif, Jayamkondam.

For Petitioner

: Mr.L.Premkumar
for M/s.T.Muruganantham

For R1 to R3

:M/s.S.Varsha (Vakalat not filed)

For R4 to R9

: No appearance

ORDER

This civil revision petition is filed against the fair and decreetal order dated 19.04.2010, made in I.A.No.497 of 2009 in O.S.No.377 of 2004, on the file of the District Munsif, Jayamkondam.

2. The petitioner is second defendant, respondents 1 to 3 are the plaintiffs in O.S.No.377 of 2004 on the file of the District Munsif, Jayamkondam. The respondents 1 to 3 filed the said suit against the petitioner and respondents 4, 5, 6 and one Kaliaperumal for declaration and permanent injunction. Pending suit, the first defendant died on 04.07.2009. The respondents 1 to 3 filed I.A.No.497 of 2009 for impleading the respondents 7 to 9 as legal heirs of the deceased first respondent.

3. The petitioner filed counter affidavit and opposed the said application on the ground that the petitioner is one of the sons of the first defendant and one of the legal heirs. The deceased first defendant left behind three daughters namely Amsavalli, Vasantha and Amaravathi and also grand children through pre deceased daughter Aboorvam. The respondents 1 to 3 did not implead all the

legal heirs and therefore, the application is liable to be dismissed for not impleading the necessary parties and for non-joinder of parties. The learned Judge, considering the averments in the affidavit and counter affidavit, allowed the application on the ground that the petitioner has not substantiated his claim by filing documents, that deceased first defendant left other legal heirs also.

4. Against the said order dated 19.04.2010, made in I.A.No.497 of 2009 in O.S.No.377 of 2004, the present civil revision petition is filed by the petitioner.

5. Heard the learned counsel appearing for the petitioner and respondents 1 to 3 and perused the materials available on record.

6. The contention of the learned counsel appearing for the petitioner is that the respondents 7 to 9/proposed defendants are not the only legal heirs of the first defendant, there are also other legal heirs of the deceased first defendant. The contention of the learned counsel appearing for the petitioner that the learned Judge has not considered the legal heirship certificate produced by the

proposed parties and counter filed by the petitioner are untenable. The learned Judge had considered the contention of the petitioner in the counter affidavit that there are other legal heirs of the deceased first defendant and rejected the said contention on the ground that the petitioner has not produced any document to substantiate the said claim. The petitioner also has not produced any legal heirship certificate before this Court and on failing to produce legal heirship certificate, the contention of the petitioner that learned Judge has not properly considered the objection raised in the counter by the petitioner and the legal heirship certificate produced by the proposed parties, is not acceptable. For the above reason, the civil revision petition is liable to be dismissed as devoid of merits. It is open to the petitioner to take appropriate steps for impleading all the legal heirs of the deceased first defendant, if any by producing acceptable documents.

8. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.08.2017

Index: Yes/No
gsa

To

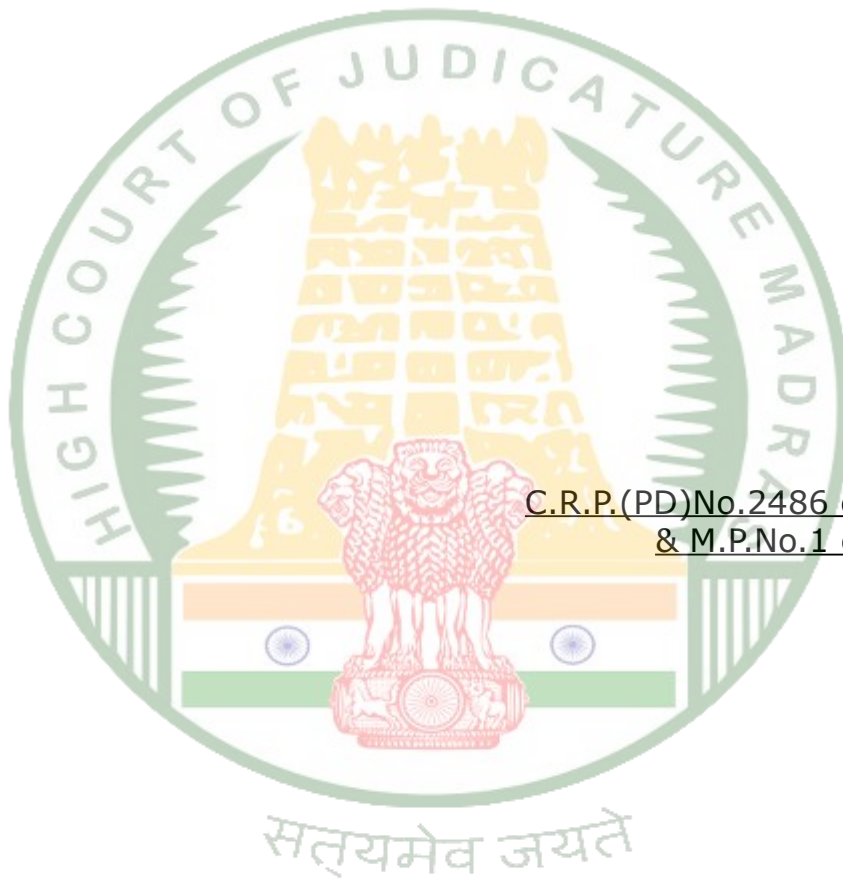
The District Munsif, Jayamkondam



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V.M.VELUMANI, J.

gsa



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