

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1993 of 2012
& M.P.No.1 of 2012

Nallammal

.. Petitioner

Vs.

1.Veerappan
2.Vedam

Kolandan (died)

3.Minor Selvabharathi
4.Minor Sethurajan
(Minors represented by guardian & mother
the 2nd respondent Vedam)

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 16.04.2012 made in I.A.No.784 of 2010 in O.S.No.533 of 2008 on the file of the Principal District Munsif Court, Namakkal.

For Petitioner

: Mr.Perumal
for Mr.T.Dhanya Kumar

For R1

: No Appearance

For R2

: Ms.Zeenath Begum

For R3 & R4

: Minors representing by R2

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ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 16.04.2012 made in I.A.No.784 of 2010 in O.S.No.533 of 2008 on the file of the Principal District Munsif Court, Namakkal.

2. The petitioner is the plaintiff and respondents 1 and 2 are the defendants 1 and 2 in O.S.No.533 of 2008 on the file of the Principal District Munsif Court, Namakkal. The petitioner filed suit for permanent injunction on the ground that as per the family partition deed dated 01.07.1998, she has life interest and she is in possession of the suit property. The respondents 1 and 2 filed separate written statement stating that the second respondent purchased the property and she is in possession and enjoyment of the property and are contesting the suit. At this stage, the petitioner filed I.A.No.784 of 2010 under Order VI Rule 17 C.P.C. for amendment of the plaint to include various averments to the effect that she became absolute owner of the suit property as per Section 14 of the Hindu Succession Act.

3. According to the petitioner, she came to know about her right only when the suit was taken up for trial.

4. The respondents filed counter affidavit and denied all the averments made by the petitioner. The petitioner is seeking amendment of the plaint to include the averments that she became absolute owner of the property. She has not prayed for any amendment to include the relief of declaration that the petitioner is in possession only one portion of A schedule property and first respondent is in possession and enjoyment of the other property from the date of purchase and prayed for dismissal of application.

5. The learned Judge, considering the averments made in the affidavit, counter affidavit and averments made in the plaint, dismissed the application.

6. Against the said order of dismissal dated 16.04.2012 made in I.A.No.784 of 2010, the present Civil Revision Petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner as well as second respondent and perused the materials available on record.

8. From the materials available on record, it is seen that the petitioner has filed suit for permanent injunction against the respondents on the ground that she is in possession of the suit property as life interest holder, as per the family partition deed dated 01.07.1998. The respondents denied the possession of the petitioner in the written statement. When the suit was ripe for trial, the petitioner filed the present application for amendment to include the averments that she became absolute owner of the suit property as per Section 14 of the Hindu Succession Act. The petitioner has not prayed for any amendment to include the relief of declaration that she has become absolute owner of the suit property as per Section 14 of Hindu Succession Act.

9. The learned Judge considering the above aspects, dismissed the application holding that in the suit for permanent injunction, possession of the plaintiff in the suit property is the criteria to decide the suit and by amendment, the petitioner is seeking to introduce a new case and new cause of action. There is no reason to interfere in the reasoning of the learned Judge, who has considered each and every averments made by the petitioner in

the application filed for amendment and rejected the same by giving cogent and valid reason.

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

06.10.2017

Index : Yes/No
dm/kj

To

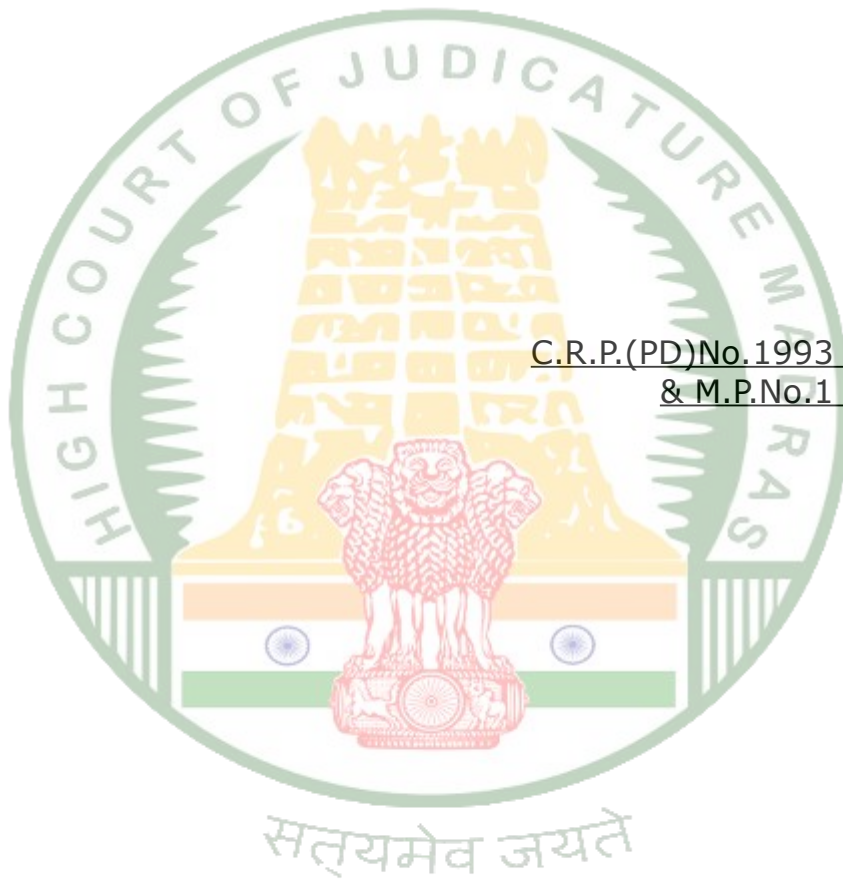
The Principal District Munsif Court,
Namakkal.



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V.M.VELUMANI, J.

dm/kj



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