

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3330 of 2009

Jayasekar

.. Petitioner

Vs.

Amirthammal (Died)

- 1.Devagi
- 2.Munuswamy
- 3.Jayamohan

Chinnammal (Died)
Rajammal (Died)
Kannammal (Died)
Murugesan (Died)

- 4.Muniammal
- 5.Subramaniam
- 6.Balasundaram
- 7.Kuppuswamy
- 8.Manoranjitham
- 9.Ramalingam
- 10.Amudha
- 11.Alamelu Ammal
- 12.Ganesan
- 13.Sundar
- 14.Shanthi
- 15.Pakkiam

16.Ramaswamy
 17.Indirani
 18.Namasivayam
 19.Saravanan
 20.Kalaiyarasi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 27.02.2006 made in I.A.No.243 of 2006 in A.S.No.918 of 1995 on the file of the Principal District Munsif Court at Tindivanam.

For Petitioner : Mr.R.Balasubramanian

For R1,R6,R10 to 14 : No appearance

R5 and R7 : died

For R2,R3,R8,R15 : Not ready in notice

For R4,R9,R16 to 20 : No Appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 27.02.2006 made in I.A.No.243 of 2006 in A.S.No.918 of 1995 on the file of the Principal District Munsif Court at Tindivanam.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. The petitioner is the 16th defendant, respondents 1 to 3 are the plaintiffs, respondents 4 to 14 are the defendants 5 to 15 and respondents 15 to 20 are the defendants 17 to 22 in O.S.No.918 of 1995. The deceased Amirthammal filed suit for partition. After the death of Amirthammal, respondents 1 to 3 are brought on record. The petitioner and 15th respondent have filed written statement on 10.02.2006 and 03.06.2004 respectively and are contesting the suit. The petitioner filed I.A.No.243 of 2006 under Order VIII Rule 9 C.P.C., for permission to file additional written statement.

4. According to the petitioner, the first plaintiff Amirthammal died. The respondents 1 to 3 are not legal heirs of the first plaintiff and therefore, the suit is liable to be dismissed for non-joinder of necessary parties. Further, some more persons to be added as the defendants to the suit. Therefore, it is necessary to permit the petitioner to file additional written statement.

5. The first respondent filed counter affidavit and opposed the said application. According to the first respondent, first plaintiff, her husband and their son Krishna Gounder were died. The first respondent is the wife of Krishna Gounder and the respondents 2 and 3 are the sons of Krishna Gounder. While the first plaintiff was alive, she bequeathed her 2/3 shares to the respondents 1 to 3 by the registered Will dated 22.01.1993. After the death of first plaintiff, the respondents 1 to 3 were brought on record and they are contesting the suit. The petitioner, 4th and 15th respondents do not have any share in the suit property. The petitioner and 4th respondent are illegally residing in one portion of the suit property. The petitioner has come out with the present application in order to drag on the proceedings and hence, prayed for dismissal of the application.

6. The learned Judge, considering the facts that the first plaintiff had bequeathed the property by the registered Will dated 22.01.1993 in favour of the respondents 1 to 3 and the persons mentioned by the petitioner are not necessary parties to the suit,

dismissed the application. In view of the above, there is no irregularity or illegality warranting interference by this Court with the order passed by the learned Trial Judge dated 27.02.2006.

7. In the result, the Civil Revision Petition is dismissed. No costs.

26.10.2017

Index : Yes/No
dm/kj

To

The Principal District Munsif
Tindivanam.

V.M.VELUMANI, J.

dm/kj

C.R.P.(PD)No.3330 of 2009

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