

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4363 of 2010
& M.P.No.1 of 2010

Thilagavathi

.. Petitioner

Vs.

1. Seeni (Died)
2. Selvam
3. Kodi Pown
4. Vijaya

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 19.04.2010 made in I.A.No.577 of 2009 in O.S.No.122 of 2005 on the file of the learned District Munsif, Jeyankondam.

For Petitioner : Mr.M.S.P.Veeramani

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 19.04.2010 made in I.A.No.577 of 2009 in

O.S.No.122 of 2005 on the file of the learned District Munsif, Jeyankondam.

2. The petitioner is plaintiff and respondents 1 and 2 are the defendants 1 and 2 in O.S.No.122 of 2005. The respondents 3 and 4 are the proposed parties. The petitioner filed suit for partition and separate possession against the respondents 1 and 2. Pending suit, the first respondent died on 09.08.2007. The petitioner filed I.A.No.577 of 2009 for impleading respondents 3 and 4 as defendants 3 and 4 in the suit.

3. According to the petitioner, the respondents 2 to 4 are the legal heirs of their father/deceased first respondent.

4. The second respondent filed counter affidavit and opposed the said application on the ground that the third respondent is the second wife of the deceased Seeni and she is not the legal heir of the first respondent. The first wife of the first respondent, Mariyayee @ Periyamottai is alive and one daughter by name Azhagammal and one son by name Mohan are also the legal heirs of the first

respondent and prayed for dismissal of the application.

5. Before the learned Judge, the petitioner marked two documents as Exs.A1 and A2. The second respondent marked one document as Ex.B1.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and legal heirship certificates filed by the petitioner and respondents, dismissed the application.

7. Against the order of dismissal dated 19.04.2010 made in I.A.No.577 of 2009, the present civil revision petition is filed by the petitioner.

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

9. From the materials on record, it is seen that both the petitioner and the respondents filed two different legal heirship certificates. In the certificate filed by the petitioner, the third respondent is shown as second wife of the first respondent and

fourth respondent, petitioner and second respondent are shown as the legal heirs of the first respondent. In the legal heirship certificate filed by the second respondent, it has been mentioned that the second respondent, Alagammal and Mohan are the legal heirs of the first respondent. The learned Judge considering the above certificates, dismissed the application on the ground that the petitioner did not file any application to bring on record the respondents 3 and 4 as legal heirs of the first respondent. She has filed the application only for impleading, which is not maintainable. The reasoning given by the learned Judge is valid and there is no error in the order passed by the learned Judge. For the above reason, the Civil Revision Petition is devoid of merits.

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

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Index : Yes/No

gsa/kj



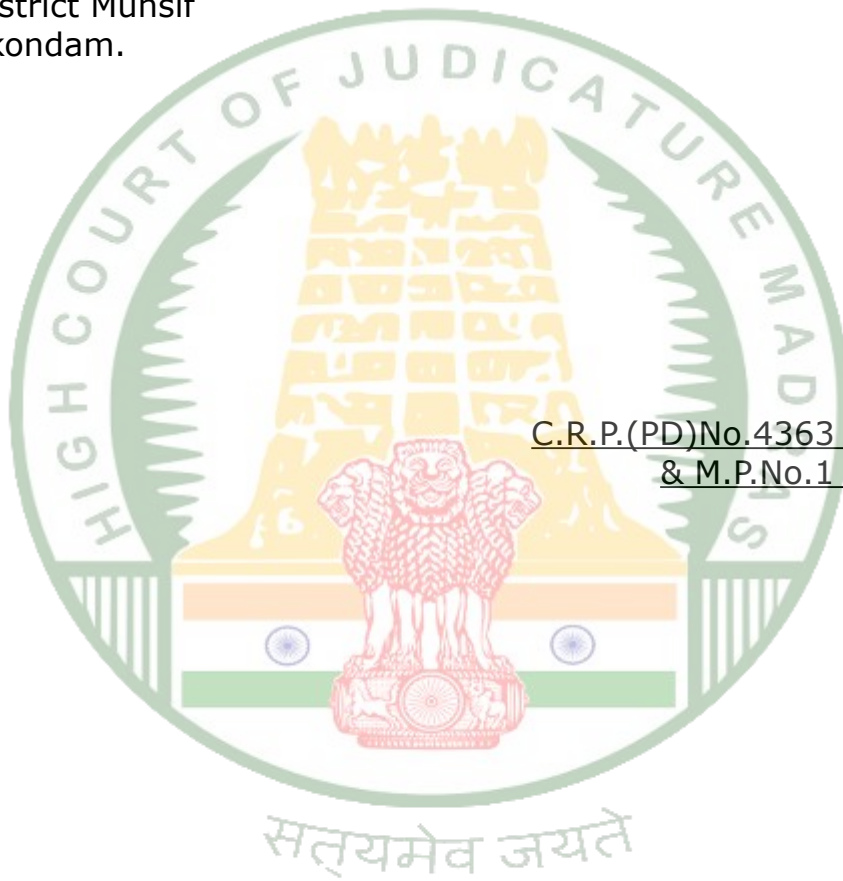
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V.M.VELUMANI, J.

gsa/kj

To

The District Munsif
Jeyankondam.



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