



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

Coram:

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CMP (MD) No.4673 of 2017
in
CRP (MD) No.SR3707 of 2017

Kaliyaperumal

.. Petitioner/Petitioner

-Vs-

1.Durairajan
Thangavel (died)
2.Sagunthala
3.Sekar
4.Kanagaraj
5.Raja
6.Maya @ Kumar

...Respondents/Respondents

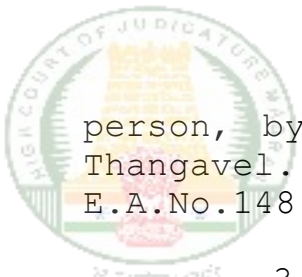
Prayer:- Civil Miscellaneous Petition Filed under section 151 of Civil Procedure Code to grant leave to file CRP against the Order E.A.No.148 of 2015 in E.P.No.13 of 2009 in O.S.No.152 of 2002 dated 01/11/2016, on the file of the learned Principal District Munsif Court, Kumbakonam, pending disposal of the Civil Revision Petition before this Court.

For Petitioner : Mr. S.Rajaprabu

ORDER

Civil Miscellaneous Petition filed under section 151 of Civil Procedure Code to grant leave to file the Revision Petition in against E.A.No.148 of 2015 in E.P.No.13 of 2009 in O.S.No.152 of 2002 on the file of the learned Principal District Munsif Court, Kumbakonam, pending disposal of the Civil Revision Petition before this Court.

2.This petition is to grant leave to file the Civil Revision Petition against the order passed in E.A.No.148 of 2015 in E.P.No.13 of 2009 in O.S.No.152 of 2002. The case of the petitioner is that he is the son of Thangavel, who is the judgment debtor in E.P.No.13 of 2009. On demise of Thangavel, the decree holder/first respondent herein has filed an application to bring on record the legal heirs of the deceased Thangavel, in which the present petitioner Kaliyaperumal was not made as a party, but some other



person, by name Sekar, was shown as legal heir of the deceased Thangavel. This was brought to the notice of this Court through E.A.No.148 of 2015.

3.However, the Court allowed the petition to implead the legal representatives of the deceased Thangavel against which C.M.P. has preferred and pending before Principal District Munsif Court, Kumbakonam. Whiles, the decree holder has taken out another application in E.A.No.148 of 2015 to amend the amendment petition in E.A.No.84 of 2014.

4.The order passed in the petition to bring legal representatives on record filed in E.A.No.13 of 2013, is under challenge in C.M.A.No.2 of 2016. While so, pursuant to the order passed in said petition, the decree holder has filed E.A.No.84 of 2014 to amend the cause title, in which the decree holder has filed another petition in E.A.No.148 of 2015 to amend the amendment petition filed under order VI Rule 17 on the ground that he has impleaded some of the legal-heirs of the deceased Thangavel by calling name and only now he has come to know about the official name. Therefore, he wants to substitute the official name in the place of calling name.

5.The Trial Court after considering the objection made by the respondents including the allegations of suppressing the pendency of C.M.A.2 of 2016, filed against the order passed in E.A.13 of 2013, has concluded that no prejudice will be caused to the respondents by allowing the amendment petition. Since, the original judgment debtor Thangavel died pending E.P., with the available information collected from the neighbour the amendment petition has been filed in time and the same was allowed. Wherein some of the legal-heirs were not described through their official name but by their calling name.

6.The merit of the order passed by the Execution Court to bring the legal-heirs of the deceased Thangavel is a subject matter of C.M.A.2 of 2016. By allowing the petition to amend the amendment petition describing the parties by their official name is no way going to prejudice the petitioner. If at all he have any merit in the impleading petition they can very well canvass in C.M.A.2 of 2016.

7.The finding of the Trial Court is very well in consonance with law and procedure and there is no necessity for the parties to file a fresh Petition to bring the legal-heirs on record which will not only complicate the procedure but also lead to multiplicity of proceedings as pointed out by the Trial Court.

<https://hcservices.ecourts.gov.in/hcservices/>, this Court is not inclined to grant leave to the petitioner to file a Revision Petition. Any right of the petitioner, to agitate the merit of E.P, is always open to him by



filing appropriate petition before the Execution Court. Hence this Civil Miscellaneous Petition is Dismissed.

Sd/-

Assistant Registrar (CS-I)

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/True copy/

Sub Assistant Registrar

To

Principal District Munsif Court,
Kumbakonam.

TA/GNS

AE/MR/SAR3/13.06.2017/3P/2C

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