



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.07.2017
CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P. (MD) .No.1262 of 2017
and
C.M.P. (MD) .No.6163 of 2017

Lakshmanan

... Petitioner

Vs.

1.Mahalakshmi
2.Alagammal
3.Ramasamy

... Respondents

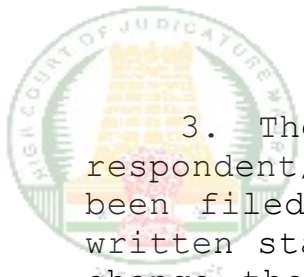
Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 27.06.2017 made in I.A.No.143 of 2017 in O.S.No.45 of 2005 on the file of Principal District Court, Dindigul District, Dindigul.

For Petitioner : Mr.A.Arumugam

ORDER

The suit in O.S.No.45 of 2005 has been filed on the file of the Principal District Court, Dindigul Court, Dindigul, for partition by the first respondent/plaintiff. The defendants including, the revision petitioner have filed the written statement. In the written statement, a plea has been taken stating that the suit properties are the self acquired properties of one Lakshmanan who is the father of the plaintiff and the defendants. It is found that the plaintiff's side evidence was closed on 05.06.2017. The petitioner herein was examined in chief as D.W.1. At that stage of the matter, the defendants have filed an application in I.A.No.143 of 2017 under Order 6 Rule 17 and Section 151 of Code of Civil Procedure seeking permission to amend the written statement.

2.The relief sought for by the defendants is that the suit properties are referred to as the self acquired properties of their deceased father, on the other hand, items 1 to 4 suit properties are the self acquired properties of the first defendant. It is further stated that they have filed documents with reference to the same. In such view of the matter, according to the defendants, the written statement has to be amended suitably and prayed for amendment of the written statement touching upon the proposed amendments sought for in the petition.



3. The said petition was seriously resisted by the first respondent/plaintiff contending that the suit for partition has been filed in the year 2005 and the defendants have filed their written statement and ten years, thereafter the defendants want to change the averments made in the written statement which is not permissible in law and therefore, the petition filed under Order 6 Rule 17 is liable to be dismissed.

4. The lower Court, on the basis of the contentions of the respective parties found that the amendment sought for by the petitioner and the pleas already taken by the defendants in the written statement are inconsistent and held that the petition filed by the petitioner herein is devoid of merits. Challenging the same, the present revision petition has been filed.

5. Learned counsel for the petitioner relied on the following judgments in support of his contentions.

(i) In **Jagnabalkya Chakraborty Vs. Bidyarthi Chakraborty & Others** reported in **AIR 2006 Gauhati 120**;

(ii) In **Abdul kader, Petitioner Vs. Chinnaswamy Padayachi** reported in **AIR 1980 Madras 116**;

(iii) In **Muniswami Vs. M.Manickam** reported in **2009 (1) CTC 81**

(iv) In **kannayiram Vs. Thalaivar, Thoppampatti Ooratchi Mandram** reported in **2016(2) MWN (Civil) 346 and**

(v) In **Usha Devi Vs. Rijwan Ahamd and others** reported in **(2008) 3 MLJ 287 (SC)**

6. The principles of law outlined in the above said decisions are taken into consideration and followed as applicable to the facts and circumstances of the present case. The trial Court has rightly dismissed the petition filed by the petitioner stating that the amendment sought for by the defendants and the pleas ready taken by the defendants in the written statement are totally inconsistent and contradictory. This Court finds no infirmity or irregularity in the order passed by the Court below. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, C.M.P. (MD) No. 6163 of 2017 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

The Principal District Judge, Dindigul.

+1cc to Mr.A.Arumugam, Advocate Sr.No.64278

+1cc to Mr.S.Mahesh Babu, Advocate Sr.No.63901

SSS/RMI

VB/SV/SAR4/21.07.2017/3P/4C

**C.R.P. (MD) .No.1262 of 2017
and
C.M.P. (MD) .No.6163 of 2017
06.07.2017**