



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P. (PD) (MD) No.1537 of 2017

Panchali

... Petitioner/Plaintiff

-vs-

Gnanaselvam (Died)

Suresh

...Respondent No.4/4th Defendant

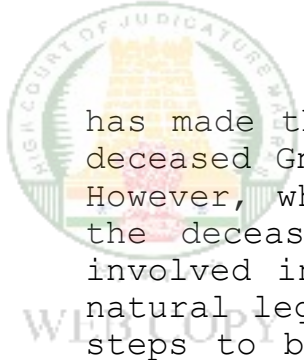
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, directing the Trial Court (Principal District Munsif Court, Nagercoil) to number the Impleading Petition in unnumbered I.A.(SR.No.2024 of 2017) in I.A.No.553 of 2014 in O.S.No.385 of 2005 and pass orders in accordance with law within a time stipulated by this Court.

For Petitioner : Mr.V.Meenakshisundaram

ORDER

It is found that Gnanaselvam has laid the application in I.A.No.553 of 2014 in O.S.No.385 of 2005 for passing a final decree. Pending the above said application, it is found that he had died. However, his legal representatives have not chosen to implead themselves as parties to the proceedings to prosecute the matter further. Meanwhile, it is found that the petitioner has made an application in unnumbered I.A.(SR.No.2024 of 2017) permitting her to bring on record as the legal representative of the deceased Gnanaselvam on the footing that she is the successor to the property as per the registered will deed, dated 25.01.2016. The said application has been returned by the Court below on the ground of maintainability. Inasmuch as, the petitioner had insisted that the application is maintainable, the Court below finding that the natural legal heirs of the deceased Gnanaselvam having not been brought on record, hence, the Court below directed the petitioner to bring the natural heirs of the deceased on record and thereby, the Court below has held that the contentions of the petitioner would be determined in the presence of the natural legal heirs. This order of the Court below is being impugned in this Civil Revision Petition.

2.It is the contention of the learned counsel for the petitioner that the natural legal heirs of the deceased Gnanaselvam have not taken any steps to implead themselves as parties to the proceedings on his death, on the other hand, the petitioner alone,



has made the application for treating him as the legal heir of the deceased Gnanaselvam as per the Will executed by him on 25.01.2016. However, when it is admitted that there are natural legal heirs of the deceased Gnanaselvam, the Court below found that the issues involved in the matter should be determined in the presence of the natural legal heirs and accordingly, directed the petitioner to take steps to bring the natural legal heirs on record. In my opinion, the order of the Court below cannot be found faulted with, as proper and necessary parties have to be impleaded for completely adjudicating the issues involved in the matter. In such view of the matter, when the Will, dated 25.01.2016, is said to have been executed by the deceased Gnanaselvam and admittedly, when there are other legal heirs of the said deceased Gnanaselvam, it is seen that the issues could be determined properly and correctly only in the presence of the natural legal heirs. Accordingly, the Court below has rightly returned the application.

3. In the light of the above position, the order of the return made by the Court below cannot be faulted with and there is no infirmity in the same. Accordingly, this Civil Revision Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

The Principal District Munsif,
Trial Court, Nagercoil.

+1cc to Mr.D.NALLATHAMBI Advocate in SR. No. 77746

MYR/SMI

JS/SKN.RSK/SAR.1/26.09.2017/ 2P-3C

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