

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).Nos.2442 and 2256 to 2258 of 2009

A.Sathiyabama ... Petitioner in
C.R.P.(PD).No.2442 of 2009

T.S.Ayyappan ... Petitioner in
C.R.P.(PD).Nos.2256 and
2258 of 2009

Vs

T.R.S.Jayaprakash ... Respondent in
C.R.P.(PD).Nos.2442, 2256
and 2258 of 2009

C.R.P.(PD).No.2257 of 2009:

1.T.S.Ayyappan
2.A.Gajendran
3.Soundaravalli
4.Sathiyabama
5.Kalyani
6.T. Selvam ... Petitioners

v.

1.T.R.S.Jayaprakash
2.Parvathi
3.S.Dhanalakshmi
4.S. Prema
5.A.Jayendran
6.M.Parameswari
7.Dr.Parimala Prakasam ... Respondents

Prayer in C.R.P.(PD).No.2442 of 2009 : Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in I.A.No.156 of 2007 in O.S.No.287 of 2004 on the file of the learned Principal District Judge, Vellore, dated 08.06.2009.

Prayer in C.R.P.(PD).No.2256 of 2009: Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in I.A.No.242 of 2005 in O.S.No.287 of 2004 on the file of the learned Principal District Judge, Vellore, dated 08.06.2009.

Prayer in C.R.P.(PD).No.2257 of 2009: Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in I.A.No.243 of 2005 in O.S.No.287 of 2004 on the file of the learned Principal District Judge, Vellore, dated 08.06.2009.

Prayer in C.R.P.(PD).No.2258 of 2009: Petition filed under Article 227 of the Constitution of India against the fair and

decreetal order in I.A.No.154 of 2007 in O.S.No.287 of 2004 on the file of the learned Principal District Judge, Vellore, dated 08.06.2009.

For Petitioners : Mr.Vadivel Murugan
for Mr.Palani Selvaraj
in C.R.P.(PD).No.2442 of 2009

Mr.Vadivel Murugan
for Mr.R.G. Narendhiran
in C.R.P.(PD).Nos.2256 to
2258 of 2009

For Respondents: Ms.AL. Gandhimathi
in C.R.P.(PD).Nos.2442, 2256/2009
and for R2 to R7
in C.R.P.(PD).Nos.2257&2258/2009

COMMON ORDER

The following are the details of the revision petitions that are sought to be disposed of by way of this Common Order:

(a).C.R.P.(PD).No.2242 of 2009 is filed challenging the order passed in I.A.No.156 of 2007 in O.S.No.287 of 2004 in and by which the application filed by the 8th defendant, to delete her from the array of parties and exclude the properties standing in her name from the schedule of the properties, was dismissed.

(b).C.R.P.(PD).No.2256 of 2009 is filed challenging the order passed in I.A.No.242 of 2005 whereby the application moved by the 2nd respondent for filing an additional written statement was dismissed.

(c).C.R.P.(PD).No.2257 of 2009 is filed challenging the order in I.A.No.243 of 2005 wherein the application filed by the 2nd respondent to implead the plaintiff's wife as 12th defendant was dismissed.

and

(d).C.R.P.(PD).No.2258 of 2009 is filed challenging the order in I.A.No.154 of 2007 wherein the properties standing to the name of the proposed 12th defendant was sought to be included in the schedule of properties.

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2.All these Interlocutory Applications have been filed in the suit O.S.No.287 of 2004 which was filed by the 1st respondent herein for a partition and separate possession of his 6/15th share in the suit properties.

3.I do not propose to go into the details of the suit, Written Statement, etc., Suffice it to state that the learned Principal District Judge, Vellore, having dismissed the application filed by the 8th defendant in I.A.No.156 of 2007 to delete her from the array of parties and exclude her properties ought not to have dismissed I.A.No.243 of 2005 and I.A.No.154 of 2007 which are also the application seeking to implead the plaintiff's wife as the 12th defendant and to include the properties purchased in her name to the suit schedule. The application for filing of an additional written statement in I.A.No.242 of 2005 is also to highlight these factors. The learned Judge ought to have taken note of the fact that the suit is one for partition and that all the properties stated to be belonging to the joint family/ancestral properties have to be included in order to effect a complete partition. The order passed by the learned Principal District Judge, Vellore, suffers from infirmity.

In the result, the order passed by the learned Principal District Judge, Vellore, in I.A.No.156 of 2007 in O.S.No.287 of 2004 is confirmed and C.R.P.(PD).No.2442 of 2009 is dismissed. The order passed in I.A.Nos.242 and 243 of 2005 and I.A.No.154 of 2007 are set aside and C.R.P.(PD).Nos.2256 to 2258 of 2009 are allowed. There shall be no order as to costs.

26.10.2018

Index : Yes/No

Internet : Yes/No

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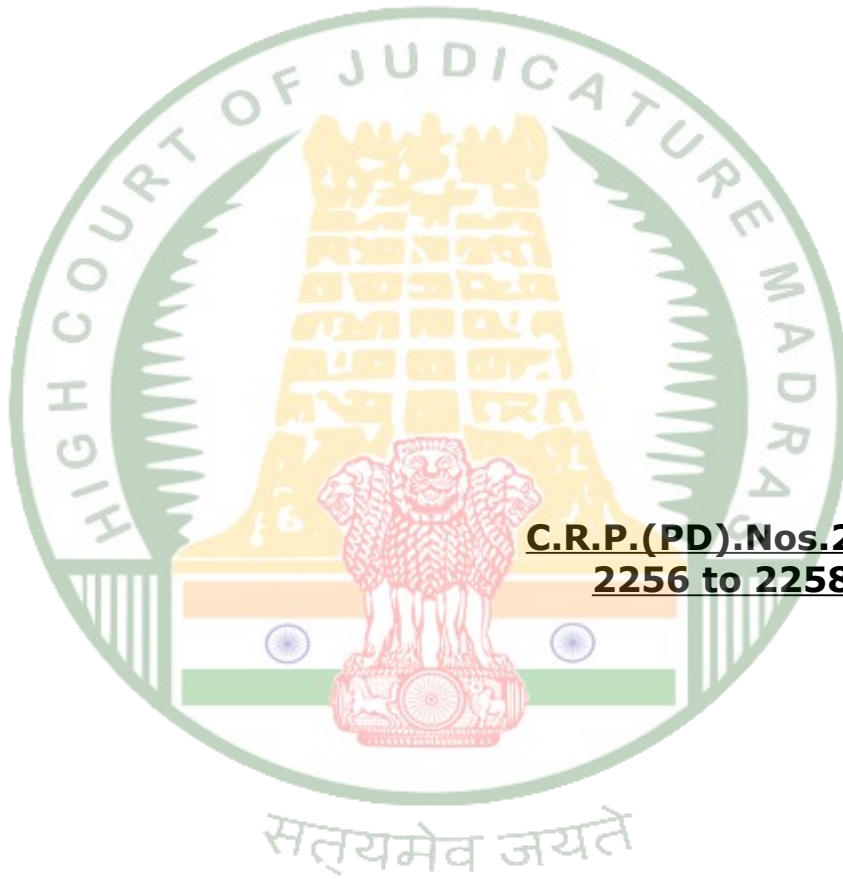
To

The Principal District Judge,
Vellore.

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P.T. ASHA, J,

mps



**C.R.P.(PD).Nos.2442 and
2256 to 2258 of 2009**

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