

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD)No.1542 of 2018

Kannammal

... Petitioner

Vs.

1. K.Dhanabakkiyam
2. N.Deivasigamani
3. N.Shanmugam
4. Saraswathi
5. Kanagaraj
6. Jaganathan
7. L.M.Perumal
8. T.Hemalatha
9. Tharageswari
10. Rathinam
11. E.P.Sethu
12. Jagadeeshraj
13. M.Noor Mohamed
14. E.M.Farkathulla
15. K.Loganathan
16. N.Govindaraj
17. S.Ramesh
18. Sheik Aaludeen
19. Mohamed Abdul Kadir
20. Rahina Begum
21. Raja Begum
22. Ramila
23. Fashika Begum
24. Sadulla
25. Thasinu,m Kousir
26. Satiya
27. Abdul Rahim
28. Rahamuthunnisha
29. S.Dhhanam

... Respondents



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Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order dated 08.01.2018 made in I.A.No.14 of 2018 in O.S.No.426 of 2011 on the file of the I Additional Sub Court, Erode.

For Petitioner : Mr.M.Guruprasad

ORDER

This civil revision petition has been filed against the fair and decreetal order dated 08.01.2018 made in I.A.No.14 of 2018 in O.S.No.426 of 2011 by the learned I Additional Subordinate Judge, Erode.

2 The civil revision petitioner filed a suit in O.S.No.426 of 2011 for the relief of partition and permanent injunction against the defendants who are the respondents 1 to 29 herein. Pending the suit, the civil revision petitioner filed an interlocutory application in I.A.No.14 of 2018 seeking a direction to the defendants in the suit to produce the death certificate of her father Muthusamy Gounder, since the main contention of the defendants is the plaintiff's father died prior to the Hindu Succession Act and hence the plaintiff is not eligible to claim any share in the suit property.

3 The trial Court after hearing the arguments advanced by the counsel on either side and after perusing the connected materials, dismissed the application by an order dated 08.01.2018 holding that though the suit is for the relief of partition and all the parties can be treated as plaintiffs, directions cannot be issued to the defendants, who are the grand children of the plaintiff's father and subsequent purchasers to produce the death certificate of the plaintiff's father.

4 Aggrieved against the order dated 08.01.2018 made in I.A.No.14 of 2018, the petitioner/plaintiff has come forward with the present civil revision petition.

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

6 According to the learned counsel for the petitioner/plaintiff she is the daughter and one of the legal heirs of Muthusamy Gounder, who is the owner of the suit property and the said Muthusamy Gounder died only after the Hindu Succession Act came into force and hence she is also eligible to claim share in the suit property. But the defendants take a stand before the trial court

that the said Muthusamy Gounder died prior to the Hindu Succession Act, and hence the defendants should produce the death certificate of Muthusamy Gounder to substantiate their contention. The trial Court erroneously dismissed the application filed by the petitioner/plaintiff seeking to produce the death certificate of Muthusamy Gounder. Hence the revision petitioner prays to allow the civil revision petition.

7 The petitioner/plaintiff being the daughter of Muthusamy Gounder, cannot seek a direction to produce the death certificate of her own father by the defendants in the suit, who are the grand children of Muthusamy Gounder and subsequent purchasers. The trial rightly dismissed the application and there is no valid ground to interfere with the order dated 08.01.2018 made in I.A.No.14 of 2018 passed by the learned I Additional Subordinate Judge, Erode.

8 Accordingly, the civil revision petition is dismissed. No costs.

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Index: Yes/No
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P.VELMURUGAN, J.,

cgi

To

The I Additional Sub Court, Erode.



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