

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :1.11.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.4894 of 2012
and
C.M.P.No.1 of 2012

1.Puttusamy
2.Madeva
3.Sivayya

... Petitioners

-VS-

1.Madeva
2.Suresh
3.Makki
4.Rajammal
5. Bellaiyan
6. Nagaraj
7.Rathini
8. Govinda
9.Madevi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying against Fair and Decreetal order dated 17.10.2012 passed in I.A.No. 1112 of 2012 in O.S.No. 144 of 2007 on the file of the District Munsif Court at Sathyamangalam.

For Petitioner
For Respondents

: Mr.K.Govi Ganesan
: Mr.J.Titus Enoch for
Mr.J.C.Vasudevan for R1 and R2

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ORDER

This Civil Revision Petition has been filed challenging the order of the District Munsif Court at Sathyamangalam in I.A.No.1112 of 2012 in O.S.No. 144 of 2007 in and by which the learned Judge has set aside the abatement caused due to the death of the deceased plaintiff. The suit was originally filed by the deceased plaintiff for partition. Pending the suit, he had died on 22.12.2010 leaving behind him surviving respondents 1, 2 and 5 to 9 herein.

2. It is the case of the respondents 1 and 2 that the sole plaintiff had executed a Will on 24.04.2007 bequeathing the properties on them. Therefore, they have taken out an application to implead them as legal heirs on the basis of the said Will. However, the said application was dismissed. After the dismissal of the said application, the petitioners have come forward with the present application to implead all the legal heirs. Once again the revision petitioners are opposing the said application, and denying the claim that the respondents 1, 2 and 5 to 9 are the legal heirs of the deceased plaintiff.

3. The Court below has allowed the application stating that the very fact that the original application was objected to was only on

the ground that all legal heirs have to be impleaded, in the present petition. Respondents 1 and 2 have impleaded all the legal representatives. The revision petitioners are frivolously opposing the same and their motive appears only to be a mean to protract the proceedings. Therefore, the learned District Munsif allowed the application. Challenging the same, the revision petitioners are before this Court.

4. Heard Mr.Govi Ganesan, learned counsel for the revision petitioners and Mr.J.Titus Enoch, the learned counsel for the respondents 1 and 2.

5. The learned counsel for the petitioners argued that the revision petitioners have objected the claim of the petitioners that they are the legal representatives and he would further contended that the respondents 1 and 2 are not born out of wedlock to the said plaintiff. Therefore, they cannot be brought on record as the legal representatives. Having contested the earlier application on the ground that the respondents 1 and 2 cannot claim an exclusive right on the basis of the Will as the same had to be first proved and that all the legal heirs are to be brought on record, the revision petitioners cannot now take a different stand. Even assuming without admitting that the petitioners in I.A.No.1112 of 2012 are

not the legitimate children of the deceased plaintiff, they are still entitled to make a claim and their claim has to be decided by the Court. I therefore, find no infirmity in the order passed by the learned District Munsif.

6. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.11.2018

Index : Yes/No

Internet: Yes/No

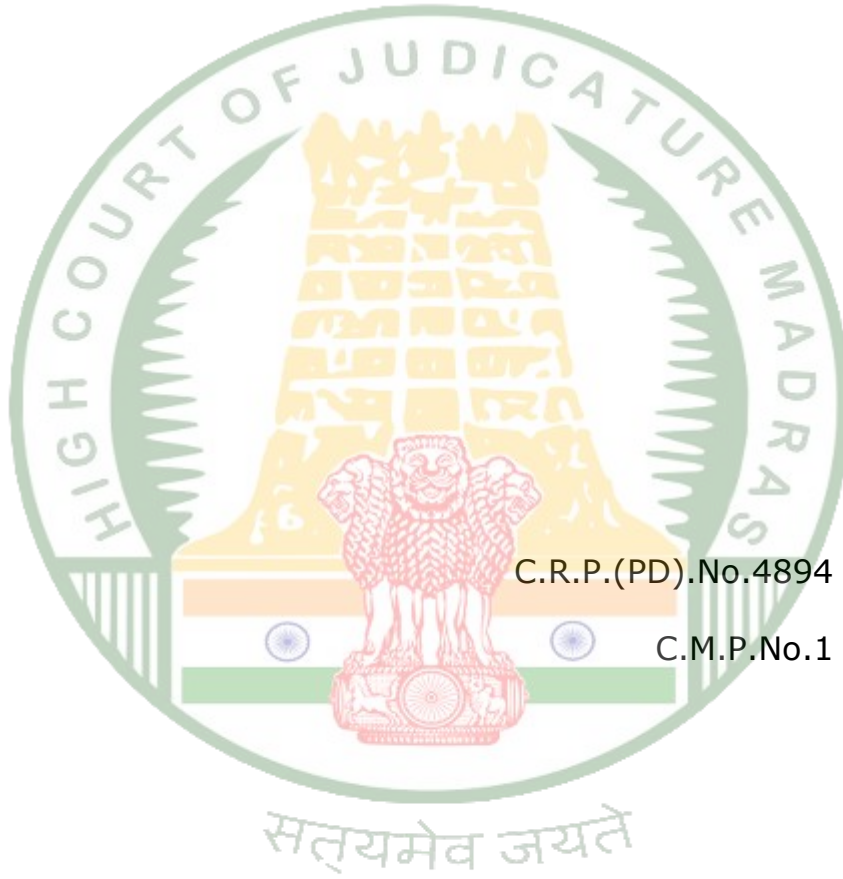
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To

The District Munsiff Court,
Sathyamangalam.

P.T.ASHA, J.

ssn/mpa



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and
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