

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.R.P.(PD)No.766 of 2012
and
M.P.No.1 of 2012

1. Smt.Kamalam,
2. Smt.Saraswathy ... Petitioners

Vs

1. Sri.Ramasamy
2. Sri.Karuppanan
3. Palaniappan
4. Smt.Lakshmi
5. Smt.Dhanalakshmi
6. Smt. Tamilselvi

7. Proprietor, M/s Pavithra Frame Works,
No:30, Thirukkannapuram,
Trichy Road, Sular.

8. S.T.S.Shanmugam
9. S.M.Pechiannan
10.Kunjammal
11.Dhandapani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed I.A.No.543 of 2006 in O.S.No.121 of 1998 on the file of the District Munsiff Court,Palladam, dated 28.06.2011 and to set aside the same.

For Petitioners : Mr.A.Panneer Selvam for
Mr.S.Gunalan
For Respondents : Mr.P.M.Duraiswamy for R11
: No appearance for RR 1 to 7 and 10
: Not ready in notice for R8 to R9

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned District Munsif, Palladam in I.A.No.543 of 2006 in O.S.No.121 of 1998, dismissing the application filed by the revision petitioners herein to implead the respondents 10 to 11 herein as parties to the suit in O.S.No.121/1998.

2. The facts in brief of the case are as follows:

The suit for partition had been filed by the revision petitioners herein, against the respondents 1 to 9 herein, when the matter was posted for trial, the revision petitioners had come forward with the application to implead the respondents 10 to 11 herein, who according to them, are their stepsisters. Despite the order directing notice to the proposed respondents, the revision petitioners had not taken steps to serve the respondents and taking into account the failure of the

petitioners; to take the learned Judge dismissed the application, which was pending for over five years. Challenging this order, the revision petitioners herein before this Court.

3. Heard. Mr.A.Panneer Selvam, learned counsel for the petitioner and Mr.P.M.Duraiswamy, learned counsel for the eleventh respondent herein.

4. Considering the fact that the suit is one for partition and the dismissal of the impleading application being on the grounds of failure to take notice on the proposed respondents, this court feels that the failure on the part of the counsel to take steps to serve the proposed parties cannot be visited on the petitioner. Taking of notice is to be done by the counsel for which the client was not required. However, considering the fact that the application has been kept pending for over five years , the revision petitioners should put on terms.

5. In the result, the Civil Revision Petition is allowed on the payment of sum of Rs.2,500/- by the petitioners to the District Legal Services Authority, Palladam or Coimbatore within a period of two weeks from the date of receipt of a copy of this order. On such payment the petitioner shall enclose proof of payment and file a memo, showing the proof of the compliance of this order along with

the order copy in the present revision. The learned District Judge, Palladam is directed to implead the proposed parties thereafter proceed with the suit. Considering the fact, suit of the year 1998, the learned District Munsif is directed to dispose of the suit within the period of six months from the date of receipt of a copy of this order. Failure on the part of the petitioner to comply with the directions given by this Court, within the time frame will automatically stand canceling the earlier order dated 28.06.2011. Connected Miscellaneous Petition is closed.

31.10.2018

Index : Yes/No

Speaking/non-speaking order

jrs

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To

The learned District Munsiff Court,
Palladam

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P.T.ASHA, J.

jrs



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