

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.220 of 2014
& M.P.No.1 of 2014

P.Amarnath

.. Petitioner

Vs.

1.C.Pachaiyappan (Deceased)

2.Anbarasi

3.P.Anbukannan

4.The Joint Sub-Registrar – I,
Saidapet,
No.9, 2nd Floor, Jennies Road,
Chennai 600 015.

5.Mani Naicker

6.Vedhagiri

7.Paranthaman

8.Sundar

9.Lakshmi Ammal

10.Illamparithi

.. Respondents

(Respondents 2 and 3 are recorded
as Lrs of the deceased R1 as per
order dated 19.01.2018 made in
C.R.P.No.220 of 2014)

PRAYER: Civil Revision Petition filed under Article 227 of the
Constitution of India against the fair and decretal order dated
26.11.2013 made in I.A.No.929 of 2013 in O.S.No.367 of 2012 on
the file of the Principal District Munsif Court, Poonamallee.

For Petitioner : Mr.N.Kumar Rajan

For R1 : Died

For R2 & R3 : No appearance

For R4 : No appearance

For RR5 to 10 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 26.11.2013 made in I.A.No.929 of 2013 in O.S.No.367 of 2012 on the file of the Principal District Munsif Court, Poonamallee.

2.The petitioner is the plaintiff and respondents 1 to 4 are the defendants and respondents 5 to 10 are the third parties in O.S.No.367 of 2012 on the file of the Principal District Munsif Court, Poonamallee. The petitioner filed the said suit for declaration to declare the cancellation of settlement deed dated 12.07.2012, registered as Document No.5286 of 2012 executed by the deceased first respondent as null and void and for an injunction restraining the first respondent from alienating or encumbering the schedule 'B' property. The first respondent filed written statement and is contesting the suit.

3.While the suit was pending, the respondents 5 to 10 filed I.A.No.929 of 2013 under Order 1 Rule 10(2) of C.P.C to implead themselves as defendants 5 to 10 in the above suit. According to the respondents 5 to 10, the deceased first respondent has filed O.S.No.136 of 2006 on the file of II Additional District Judge, Poonamallee for partition for allotment of 1/2 share in the schedule 'A' property which are self acquired properties of the deceased father Chinnasamy Naicker, father of the respondents 5 to 8. The said suit was decreed inspite of the stand taken by the respondents 5 to 10 that suit is bad for non-joinder of parties. The respondents 5 to 10 filed appeal A.S.No.920 of 2009 before this Court. This Court, by the order dated 11.01.2012, remanded the suit in O.S.No.136 of 2006 to the Trial Court with a direction to the first respondent to implead all the daughters of deceased Chinnasamy Naicker in the above suit and directed the Trial Court to dispose of the suit after allowing the impleaded parties to file written statement within a period of six months. The first respondent has impleaded only Poongothai, one of the daughters of deceased Chinnasamy Naicker as defendant and did not implead other daughters. The petitioner and his wife A.Chithra Devi were impleaded as defendants 8 and 9 by the order dated 23.08.2012 in I.A.No.944 of 2012 in the said suit

for the reason that the petitioner has fraudulently obtained a deed of General Power of Attorney dated 29.06.1989. In view of the above facts, the respondents 5 to 10 are necessary parties to the suit as they have share in the suit property.

4.The petitioner filed counter affidavit and opposed the said application.

5.The learned Judge considering the admitted fact that the suit in O.S.No.136 of 2006 is pending on the file of the II Additional District Judge, Poonamallee for partition between the parties in respect of the suit property, allowed the application.

6.Heard the learned counsel for the petitioner and perused the materials available on record. Mr.R.Prasath has filed vakalat for the respondents 2 and 3 and the same was returned. Though the names of the respondents 2 and 3 are printed in the cause list, there is no representation for them either in person or through counsel.

7.From the materials available on record, it is seen that the first respondent has filed the suit in O.S.No.136 of 2006 for partition

of the properties which are subject matter of the present suit. In the said suit, the respondents 5 to 10, the petitioner, his wife are party defendants. In view of the same, the proposed parties/ respondents 5 to 10 are not only necessary parties, but also proper parties to decide the issue in the present suit as any judgment passed in the present suit will affect their right in the suit in O.S.No.136 of 2006 filed by the first respondent for partition. The learned Judge considering all these facts, had allowed the application to implead the respondents 5 to 10 as defendants 5 to 10 in O.S.No.367 of 2013. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 26.11.2013 made in I.A.No.929 of 2013 in O.S.No.367 of 2012.

8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index :: Yes/No
Speaking Order/ Non-Speaking Order
gsa

21.02.2018

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V.M.VELUMANI,J.

gsa

To

- 1.The Principal District Munsif,
Poonamallee.
- 2.The Joint Sub-Registrar – I,
Saidapet,
No.9, 2nd Floor, Jennies Road,
Chennai 600 015.



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