

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

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

C.R.P.(PD)No.1767 of 2018 and
C.M.P.No.9864 of 2018

1. Perumayee
2. Balasubramani ... Petitioners

Vs.

1. Pavayee
2. Pappathi
3. Valliyammal
4. Gunasekaran
5. Rukkumani ... Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.254 of 2012 in O.S.No.22 of 2010 dated 24.11.2012 on the file of the Sub Court at Rasipuram.

For Petitioner : Mr.R.S.Maitreya

ORDER

This civil revision petition has been filed against the order dated 24.11.2012 passed in I.A.No.254 of 2012 in O.S.No.22 of 2010 by the learned Subordinate Judge, Rasipuram.

2 The revision petitioners filed a suit in O.S.No.22 of 2010 for partition against the respondents 4 and 5. Pending the suit, the

respondents 1 to 3 have filed an interlocutory application in I.A.No.254 of 2012 seeking to implead them as party to the suit. The trial Court after giving due opportunity to all the parties, allowed the application by an order dated 24.11.2012.

3 Aggrieved against the above said order dated 24.11.2012, the plaintiffs preferred this present civil revision petition.

4 The learned counsel appearing for the revision petitioners/plaintiffs would submit that the respondents 1 to 3 are not necessary parties and they are no way connected with the suit and they have wrongly impleaded by the trial Court. If at all they have any grievance with regard to the suit property, they should have filed a separate suit and they cannot be impleaded to the present suit. Further trial has also commenced in the said suit and it was posted for cross examination of P.W.3 and P.W.4. At this juncture, the application filed by the respondents 1 to 3 for protracting the suit proceedings, cannot be allowed. Hence the order dated 24.11.2012 is liable to be set aside.

5 Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

6 On a perusal of the records, it is seen that the revision petitioners filed a suit for partition based on the will allegedly executed by one palani Gounder. Admittedly, the respondents 1 to 3 are the daughters of the deceased Palani Gounder and the petitioners/plaintiffs and the respondents 3 & 5/defendants 1 & 2 are the legal heirs of deceased one Kandasamy Gounder, who is the son of the deceased Palani Gounder. Hence the trial Court has rightly decided that the respondents 1 to 3 are also necessary parties to the suit and their presence is absolutely necessary for effective adjudication of the suit. This Court does not find any illegality or infirmity in the order dated 24.11.2012 made in I.A.No.254 of 2012 passed by the trial Court and there is no valid reason to interfere with the same.

7 In the result, the civil revision petition is dismissed. Consequently connected miscellaneous petition is closed. No costs.

12.06.2018

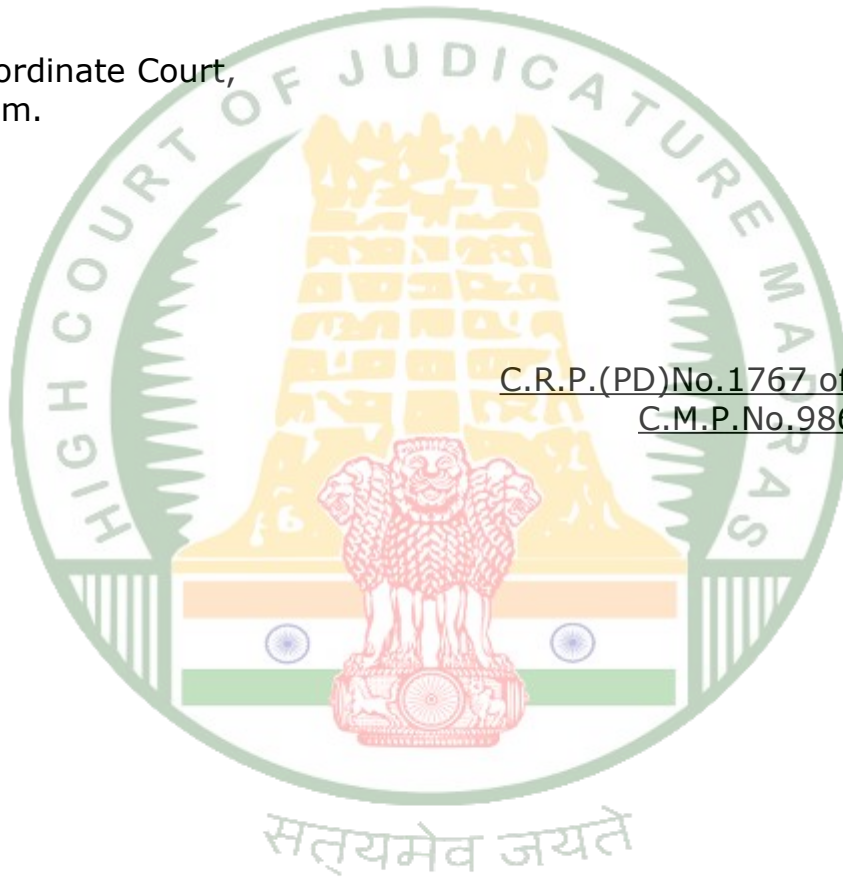
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P.VELMURUGAN, J.,

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To

The Subordinate Court,
Rasipuram.



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