



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.08.2018

DELIVERED ON : 19.09.2018

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CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.1302 of 2015

and

M.P. (MD) No.1 of 2015

R.R.Govindarajan .. Petitioner/3rd Respondent/2nd Defendant

Vs.

1.R.R.Swaminathan .. 1st Respondent/Petitioner/6th Defendant

2.P.Sentamilselvi ..2nd Respondent/1st Respondent/Plaintiff

R.Chellammal (Died)

R.R.Krishnamoorthy (Died)

3.R.R.Natarajan

4.R.Sudhanthiradevi

5.R.R.Rengarajan

6.Canra Bank,

Vallam,

Rep. By its Manager,

Bazar Street, Vallam,

Thanjavur.

7.Central Co-operative Bank,

Vallam Rep. By its Manager,

Trichy Road,

Vallam, Thanjavur.

8.Tamil Nadu Civil Supplies Corporation,

Rep. By its Special officer,

S.M.Road, behind sales tax office,

Thanjavur.

9.Rajamani ammal

10.Amsavalli

11.R.Lakshmanan

12.K.Jayalakshmi

13.K.Raguram

14.K.Gayathri

.. Respondents/Respondents 5 to 6/Defendants 4

and 5 and 7 to 16

Prayer : This Civil revision petition is filed under Article 227 of C.O.I to set aside the order dated 31.07.2014 passed by I Additional District Court (PCR), Thanjavur in I.A.No.18 of 2012 in O.S.No.107

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01-2004.

For Petitioner

: Mr.Rajaraman



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For Respondent No.1 : Mr.Sesubalan raja
For Respondent No.6 : Mr.M.Muthukumaran
For Respondents 4 and 5: Given up vide order dated 03.08.2015
For Respondents 8 to 14 : Given up vide E.P.
For Respondents 2,3, 7 : No appearance

ORDER

Heard the learned counsel on either side.

2.This petition has been filed to set aside the order dated 31.07.2014 passed by learned I Additional District Court (PCR), Thanjavur in I.A.No.18 of 2012 in O.S.No.107 of 2004.

3.The second respondent herein is the plaintiff in O.S.No.107 of 2004 for partition. It is stated that the properties belonged to one Ramasamy Udayar. The first respondent herein filed a petition in I.A.No.18 of 2012 for a relief of amendment in the plaint and the lower Court allowed the petition. Against the order, the petitioner herein has filed the present petition.

4.On the side of the petitioner, it is stated that the lower Court without considering the merits of the case has allowed the petition mechanically. The petitioner herein is the third respondent in I.A.No.18 of 2012. The first respondent herein has filed I.A.No.18 of 2012 to implead certain items which are the self acquired properties of the petitioner herein in the suit and prayed to set aside the order passed by the trial Court.

5.On the side of the first respondent, it is stated that in the pre-suit notice, some other properties including the suit properties are stated but on collusion with the third respondent who is the petitioner herein, the suit is filed leaving some of the properties which are mentioned in the pre-suit notice. The properties were purchased in the name of the petitioner herein out of the fund owned by the said Ramasamy Udayar and they are also liable for partition.

6.The properties were said to have been purchased by the said Ramasamy Udayar in the name of the petitioner herein and the petition was filed to include all these properties as suit properties. It is stated that the first respondent has left out the properties in the name of other legal heirs of said Ramasamy Udayar and those properties are worth about several crores and whether the father of the petitioner contributed any amount to the purchased of the properties in the name of the petitioner herein is also to be seen. If the first respondent wanted to include the properties in the name of the petitioner herein, he has to include all the other properties which stand in the name of the other legal heirs of the said Ramasamy Udayar.

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7.On the side of the respondents, it is stated that this



petitioner has filed a petition in I.A.No.431 of 2015 and the same was allowed by the trial Court and Civil Revision Petition in C.R.P. (MD)No.294 of 2015 was filed by the first respondent herein before this Court and this Court has directed the trial Court to consider the petition again.

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8.A perusal of the records reveals that this suit is pending from the year 2004. The partition is sought for the properties purchased by the said Ramasamy Udayar. The contention of the revision petitioner is that the first respondent wanted to include the self acquired properties of this petitioner as the suit properties. It is stated that some of the properties mentioned in the pre-suit notice was deleted in the schedule of property. The subject matter to be decided in this petition is whether the property in the name of this petitioner is a self acquired property or the property of the said Ramasamy purchased in the name of this petitioner. In a partition suit, all the properties are to be included. It is settled issue that the person claiming a property as a joint family property has to prove the same. An issue to be framed and an opportunity for the petitioner is to be given to file an additional statement. The suit is pending from the year 2004. Hence, the trial Court is directed to dispose of the case within a period of six months from the date of receipt of copy of this order.

9.In the above circumstances, there is nothing to interfere in the order passed by the trial Court and this Civil Revision Petition is dismissed. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-II)

To

The I Additional District Judge (PCR), Thanjavur.

+1cc to Mr.R.RAJARAMAN, Advocate, SR.No.85099

C.R.P. (PD) (MD)No.1302 of 2015
and
M.P. (MD)No.1 of 2015
19.09.2018

MRN

KK/SKN/SAR-2/12.10.2018/3P-3C

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