



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2018

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD).No.1199 of 2018 and
C.M.P. (MD)No.5054 of 2018

S.V.Arunachalam ... Revision Petitioner/
2nd Respondent/
1st Defendant
Vs.

1. S.V.Pethaperumal ... 1st Respondent/Petitioner/
2nd Defendant
2. S.V.Ramasamy ... 2nd Respondent/
1st Respondent/Plaintiff
3. S.V.Yagammai
4. K.R.Sornavalli
5. Y.Muthulakshmi
6. L.Alagammal
7. V.Dhanalakshmi
8. Lakshmi Arun ... Respondents 3 to 8/
Respondents 3 to 8/
Defendants 3 to 8

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and executable order dated 22.02.2018 made in I.A.No.25 of 2018 in O.S.No.91 of 2009 on the file of the learned I Additional District Judge, Madurai.

For Petitioner : Mr.A.R.M.Ramesh
For R-1 : Mr.S.Manohar
For R-6 : Mr.R.Vijayakumar
For R-2 to R-5&
R-7 & R-8 : No appearance.

O R D E R

O.S.No.91 of 2009 on the file of the I Additional District Court, Madurai, is a suit for partition instituted by Thiru.S.V.Ramasamy against Thiru.S.V.Arunachalam and others. In the said suit, the second defendant Thiru.Pethaperumal filed I.A.No.25 of 2018 for adding few more items. The said Interlocutory application was allowed by the Court below by order dated 22.02.2018. The said order is questioned in this Civil Revision Petition at the instance of the first defendant.



2. The learned counsel appearing for the Revision petitioner pointed out that the items now sought to be included in the suit schedule, admittedly do not stand in the name of the Revision petitioner herein, but acquired in the name of a firm and a Company. Admittedly, the said firm or the said Company in whose names, the newly added items were acquired are not parties before the Court below. Therefore, without those entities being present before the Court below, this application could not have been considered. Though the learned counsel made a few more submissions in the light of Benami Transactions (Prohibition) Act, 1988, this Court is not inclined to consider them at this stage. This Court concurs with the first submission.

3. Therefore, the order impugned in this Civil Revision petition is set aside.

4. The contesting respondent is at liberty to file an application for impleading those entities in the suit as defendants and thereafter, to file this application afresh.

5. With this liberty to the first respondent herein, the Civil Revision petition stands allowed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The I Additional District Judge,
Madurai.

+1 CC To MR.MR.S.MANO HAR, Advocate SR. NO.88045

+1 CC To MR.A.R.M.RAMESH, Advocate SR. NO.88085

+1 CC To MR.G.MOHANKUMAR, Advocate SR. NO.87648

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