



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) Nos.1935 and 1936 of 2016

and

C.M.P. (MD) .No.9177 of 2016

P.Vellusamy

.. Petitioner/Petitioner/Plaintiff
in both petitions

vs.

1.R.Pappa

G.Rajeswari (died)

2.P.Arumugham

3.S.Ambika

4.Minor Jeeva

5.Minor Pooja

(minors are rep. by their mother Ambika)

6.Saraswathi

7. Lakshmi

8.Thamilarasi

9.Gopinath

10.Saraladevi

11.Nirmaladevi

12.Pushpalatha

13.Meenambal

Kathappa Gounder(died)

14.P.Balasubramanian

15.R.Manavalan

16.Ganesan

17.G.Sivasankar

18.G.Yasodha

19.Kaliammal

20.Revathy

21.S.Palanisamy

.. Respondents/Respondents/
Defendants
in both petitions

22.R.Velkumar

.. Respondent/Respondent/
Defendant/
Supplemented 24th Defendant
in both petitions

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.04.2016 in I.A.Nos.219 and 220 of 2016 in O.S.No.409 of 2008 on the file of the Principal District Munsif Court, Karur.

In both petitions:

<https://hcservices.ecourts.gov.in/hcservices/>

For Petitioner

: Mr.K.Govindarajan

For Respondent No.4

: Mr.E.K.Kumaresan



WEB COPY

For Respondent No.14	: Mr.P.Thiagarajan
For Respondent No.21	: Mr.G.Sridharan
For Respondent No.9	: No appearance
For Respondent Nos.1 to 3, 6 to 8, 10 to 13, 15 to 20 and 22	: Exparte vide EB
Respondent No.5	: minor represented by mother R3

COMMON ORDER

The plaintiff in O.S.No.409 of 2008 on the file of the learned Principal District Munsif, Karur is the revision petitioner herein. The revision petitioner filed I.A.No.219 of 2016 for amending the plaint and I.A.No.220 of 2016 for re-opening the plaintiff side in O.S.No.409 of 2008. The Court below dismissed the same by a common order, dated 11.04.2016. Questioning the same, the Civil Revision Petition has been filed.

2. The learned counsel for the contesting respondents pointed out that the revision petitioner had earlier filed a partition suit and the same was allowed to be withdrawn with liberty to file a fresh one since the item in question was left out. Once again, when the present suit for partition was filed, the very same item was left out. The said defect was sought to be rectified, when the matter was reserved for judgment. Therefore, the learned counsel wanted this Court to sustain the impugned order.

3. In my view that the said objections raised by the learned counsel for the contesting respondents carry force and weight. At this stage, the learned counsel for the revision petitioner/plaintiff on instructions undertook that the petitioner will not seek to lead any further evidence. This undertaking is recorded. The common order impugned in these Civil Revision Petitions is set aside. The amendment is allowed to be made only for formal purposes.

4. It is also made clear that whatever admissions, which the plaintiff might have made during the course of cross-examination will stand. Since, the matter was reserved for judgment by the Court below way back in the year 2016, the matter will have to be argued afresh. The Court below shall dispose of the suit within a period of two months from the date of receipt of a copy of this order.

5. These Civil Revision Petitions are allowed accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(CS-III)

/True copy/



1.The Principal District Munsif,
Karur.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1cc to Mr.K.Govindarajan, Advocate, SR.No. 82911
+1cc to Mr.P.THAGARAJAN, Advocate, SR.No. 82737
+1cc to Mr.G.SRIDHARAN, Advocate, SR.No.82781
+1cc to Mr.K.SURESH, Advocate, SR.No. 83275

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PJL
KK/SV/SAR-2/09.10.2018/3P-8C