

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2019

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P.(PD) Nos.4343 to 4345 of 2012

and

M.P.Nos.1, 1 & 1 of 2012

1.D.Ayyadurai Naidu (Deceased)

2.D.Krishnappa Naidu @ Krishnan

3.Pushpa

4.Soundari

5.Indira

... Petitioners
in all C.R.Ps

Vs.

1.Gowri

2.T.Sasikala

3.G.K.Sudhakaran

4.A.Azeez Raja

... Respondents
in all C.R.Ps

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Common Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order made in I.A.No.21833, 21832 & 21891 of 2010, respectively in O.S.No.4840 of 2007 dated 10.10.2012 on the file of XV Asst.City Civil Judge, Chennai.

For Petitioners : Mr.M.Chidambaram

For Respondents : Mr.B.Eswaran
for M/S.Swaraj Associates, for R3

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COMMON ORDER

This petition has been filed as against the order of trial Court, impleading Gowri, the first respondent herein, as one of the parties to the suit.

2.The suit has been originally filed by one Jaganathan Naidu, mortgagor, as against the second defendant, for redemption of mortgage. The said Jaganathan Naidu died and on his death, his brothers were impleaded as plaintiffs in the suit. At this stage, the above one Gowri filed an application seeking to implead herself in the suit contending that she is the legally wedded wife of the said Jaganathan Naidu. The above application was opposed by the revision petitioner on the ground that she is not legally wedded wife and she was set up by the other defendant. However, the trial Court allowed the impleading application, hence, this revision petition.

3.I have also gone through the order of the trial Court. The suit has been originally filed by one Jaganathan is not in dispute. After his death, the plaintiffs 2 and 3 were impleaded, stating that they are the legal heirs of Jaganathan Naidu's brother. At this stage, the first respondent herein has filed an application claiming that she is the legally wedded wife of Jaganathan Naidu. The trial court allowed the application subject to proof of the status of the first respondent herein at the time of trial. Since, the issue pertaining to the status of the first respondent herein as legal heirs of late Jaganathan Naidu, I am of the view that the above issue has to be decided by the trial Court, where the plaintiffs 2 and 3 also claim themselves to be the legal heirs of the Jaganathan Naidu and impleaded themselves in the suit. The trial court therefore can also decide the status of the first respondent herein as to whether she is the legally wedded wife of the said Jaganathan Naidu after appreciation of oral and documentary evidence that may be adduced at the time of trial. Hence, the interference of this court is not required.

N.SATHISH KUMAR,J.

AT

4.Accordingly, the civil revision petition is dismissed. The trial Court shall decide the suit within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

11.04.2018

Index: Yes/No
AT

To
The XV Asst.City Civil Judge,
Chennai.

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