

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3377 of 2019
and C.M.P.No.22137 of 2019

S.Manogaran

... Petitioner

-Vs-

1.Lakshmi
2.Saraswathi
R.Shanmugam (Died)
3.S.Palani
4.Jagadeesan
5.Krishnamoorthy
6.Sridevi
7.Muniammal

...Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 07.01.2019 passed in I.A.No.254 of 2018 in O.S.No.268 of 2012 by the Principal District Judge, Kancheepuram at Chengalpattu.

For Petitioner : Mr.S.Anburaja

O R D E R

This revision has been filed against the fair and decreetal order dated 07.01.2019 passed in I.A.No.254 of 2018 in O.S.No.268 of 2012 by the Principal District Judge, Kancheepuram at Chengalpattu.

2. Before the trial Court, suit was laid for partition by the respondents / plaintiffs, against the revision petitioner and other defendants. The revision petitioner is the third defendant in the suit. In the said suit, it seems that additional written statement has also been filed by the defendants, which discloses certain facts that, some of the properties have been sold by the defendants, which had not originally come to the knowledge of the plaintiff and therefore, on coming to know the alienation of the property by the defendants, it became necessitated for them to file an amendment petition to amend the prayer suitably and accordingly, the present I.A., seems to have been filed, which has been allowed

by the impugned order, as against which the present Civil Revision Petition has been filed.

3. I have heard Mr.S.Anburaja, learned counsel for the revision petitioner / third defendant in the suit, who would submit that the entire property in fact is the self acquired property of the defendants, especially the present defendant ie., the third defendant and insofar as the property, which are sought to be added in the plaint schedule by virtue of the allowing of the present application is absolutely the self acquired property, acquired by the revision petitioner / third defendant and therefore, it cannot be included as one of the property in the estate to be subjected to in the partition suit. Therefore, the learned counsel for the petitioner would submit that, the said aspect has not been considered in proper perspective by the learned Judge and he has simply allowed the amendment sought for by the plaintiffs on the only reason that, after filing of the written statement, the plaintiffs have come to know about the alienation and accordingly, they have filed amendment petition.

4. I have considered the said submissions of the learned counsel for the petitioner and also perused the materials placed before this Court.

5. It is a settled proposition that, amendment can be carried out at any time in the suit and here, in the case on hand, the suit is for partition, where originally the plaintiffs might have included some of the properties as the estate of the family for partition and subsequently, after filing written statement / additional written statement, it is the claim of the plaintiffs that, they came to know that some of the properties, which according to them are the estate of the family, have been bequeathed or alienated by the defendants and therefore, those properties also have to be included in the plaint schedule and for that purpose, they claimed that, the amendment has become necessitated.

6. The said factum cannot be controverted as the additional factors came to the light of the plaintiffs through the written statement or additional written statement filed by the defendants and to have a direct impact on the issue in the main suit and in order to avoid multiplicity of the suit, the plaintiffs have sought for amendment of the plaint schedule. That too, in a case of partition, as far as possible, whatever properties, according to the knowledge of the plaintiff can be required to be included in the schedule so that a comprehensive decision can be taken by the trial Court in the suit. Otherwise, if some of the properties are left out in the said partition, there can be a further litigation, which is nothing

but multiplicity of suits and in order to avoid such a situation only, the amendment is allowable at any stage of the suit.

7. Therefore, this Court feels that, there is no infirmity in allowing the said amendment sought for by the plaintiffs before the Court below and accordingly, the impugned order does not require any interference. In that view of the matter, this Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

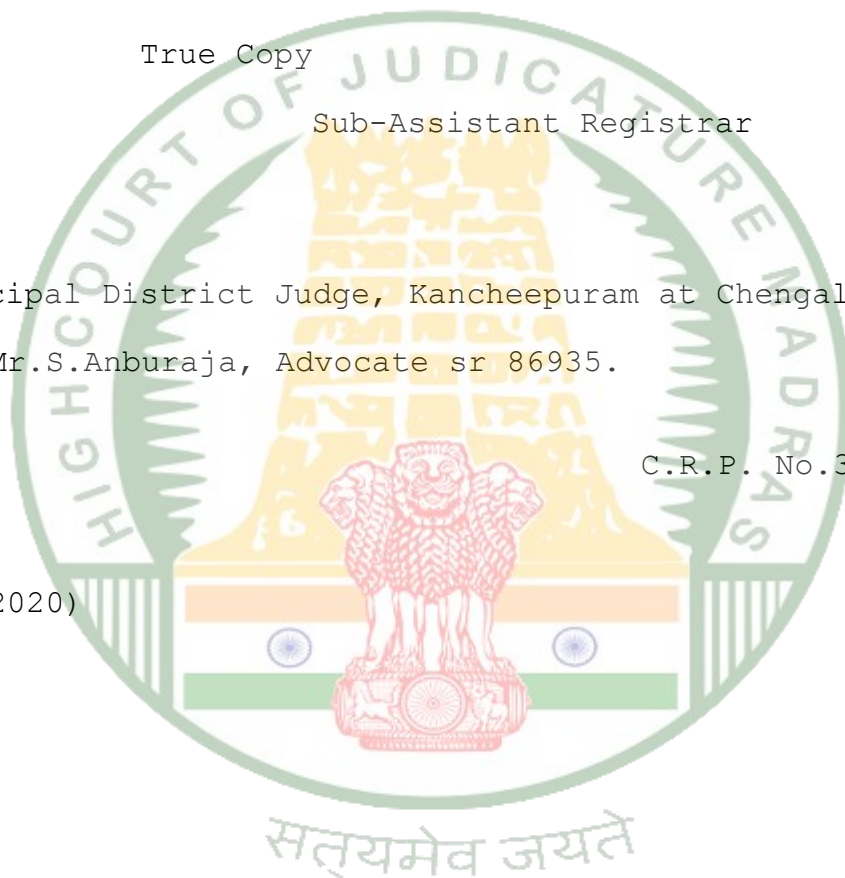
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To

Principal District Judge, Kancheepuram at Chengalpattu.

+1 CC to Mr.S.Anburaja, Advocate sr 86935.

C.R.P. No.3377 of 2019

BP(CO)
SP(21/02/2020)



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