

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(PD) No.3885 of 2019

and

C.M.P.No.25645 of 2019

Maheswari

...Petitioner

..Vs..

Kandasamy (Died)

1. Karthik
2. Pavathal
3. Dhanasekaran

...Respondents

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, against the fair and decreetal order dated 08.07.2019 made in I.A.No.802 of 2017 in O.S.No.38 of 2007 on the file of District Munsif Court at Paramathy.

For Petitioner :Mr.T.L.Thirumalaisamy

ORDER

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The present sole plaintiff in O.S.No.38 of 2007 is the petitioner herein.

2. The petitioner and the third respondent are sister and brother respectively born to the first wife of Kandasamy deceased first defendant who has filed a suit for partition seeking 1/4th share each. When the suit was pending, the first defendant-Kandasamy father died. It is a specific case of the plaintiff/petitioner herein that the first respondent/second defendant, who is the son born through the second wife of Kandasamy, is not entitled for any share. After the death of Kandasamy-father, the petitioner herein have filed I.A.No.802/17 seeking to amend the quantum of the share.

3. Taking into consideration the death of one of the parties namely, Kandasamy, after Trial, the learned District Munsif has dismissed the application stating that the I.A.No.802 of 2017 was not maintainable as the petitioner has already filed an application seeking the same relief for amendment of quantum of share.

4. Though I am not inclined to accept the finding rendered by the District Munsif, Paramathy, taking into consideration the narrow compass and the relief sought for, it is suffice to say that since the petitioner/plaintiff, on the date of filing of the suit, has claimed 1/4 share in the suit property, the learned District Munsif is directed to decide the entitlement of share of petitioner/plaintiff and the other parties, in accordance with law.

5. With these observations, this Civil Revision Petition shall stand disposed of. No costs. Consequently, connected C.M.P is closed.

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Index:Yes/No

Speaking Order:Yes/No

To

The District Munsif Court at Paramathy.

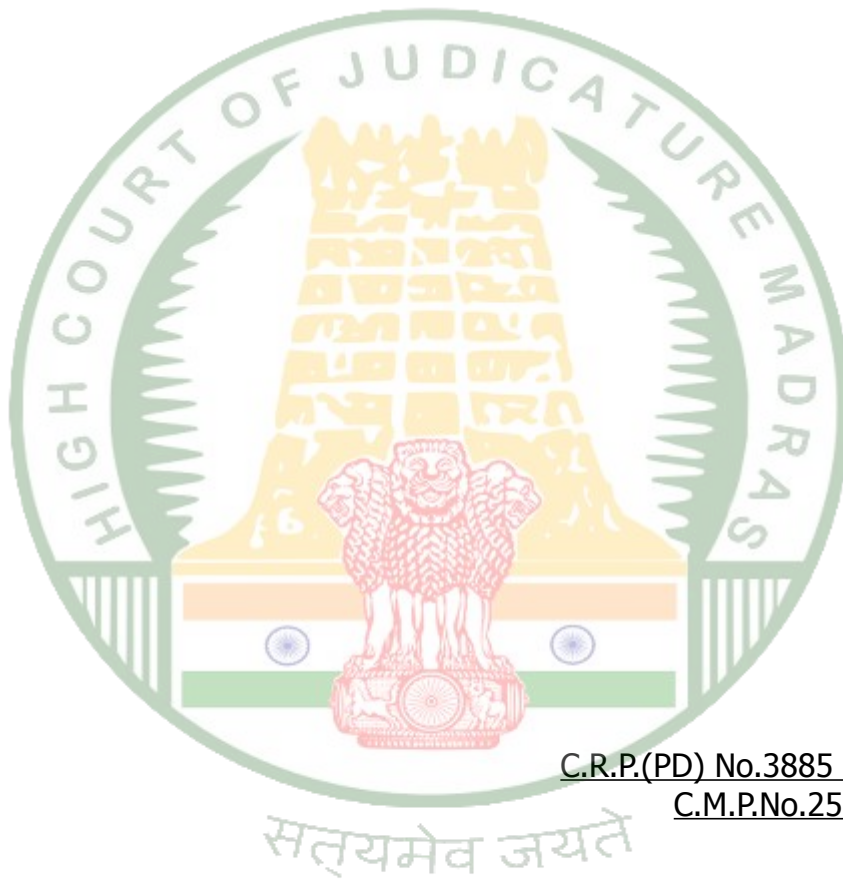


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RMT.TEEKAA RAMAN,J.,

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