

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRP.(PD).No.3963 of 2019

and

C.M.P.No.26118 of 2019

1. Govindaraj
2. Karuppannan
3. Palaniammal

... Petitioners

Versus

1. Palanisamy
2. Iyyanar
3. Natesan
4. Mahalakshmi
5. Ramayee
6. Chinnathayee
7. Kaliammai
8. Pappathi
9. P. Palanisamy

10. Palanisamy

K. Ponnusami(died)

Ponnusami (died)

11. P.Palanisamy

12. P.Palanisamy

13. Chinnapillai

14. Maragathavel

15. Kannan

16. Kandhammal

17. Kanagavalli

18. Madhu

19. Manikandan

20. Sangeetha

21. Vasantha

22. Karumalai

23. Selvi

24. Lakshmi

25. Settu @ Pachiappan

26. Iyyanar

27. Padma

28. Sathish



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29. Prakash

30. Selvi

31. Krishnan

32. Palanisamy

33. Alamelu

34. Pakkiyam

35. Amara

... Respondents

(No notice need be sent to respondents 11 to 35)

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India to set aside the fair and decreetal order dated 09.09.2019 made in I.A.No.622 of 2017 in O.S.No.456 of 2012 on the file of the I Additional Subordinate Judge, Salem.

For petitioner : Mr. V.Bhiman

सत्यमेव जयते

ORDER

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The Civil Revision Petition is taken up for final disposal at the Admission stage itself.

2. This Civil Revision Petition has been filed against the order dismissing the petitioners' application filed under Order I Rule 10 of CPC to implead the legal heirs of the deceased defendants 11 and 12.

3. The petitioners herein filed a suit in O.S.No.456 of 2012 on the file of the I Additional Subordinate Court, Salem, for partition and separate possession. Pending suit, they came to know that the defendants 11 and 12 have expired and hence, to bring the legal representatives of the deceased defendants, the petitioners/plaintiffs filed an application under Order I Rule 10 CPC and that application was dismissed by the trial Court on 09.09.2019 on the ground that the petitioner can only maintain the application under Order 22 Rule 4 of CPC and he cannot maintain a petition under Order I Rule 10 of CPC. Now, challenging the same, the present Civil Revision Petition has been filed.

4. Heard the learned counsel for the petitioners and perused the materials available on records.

5. The petitioners sought to bring the Legal Heirs of the defendants 11 and 12, who were deceased, pending suit, for that the provision under Order 22 Rule 4 alone is applicable and the petition filed by the petitioners under Order 1 Rule 10 of CPC, to bring the legal representatives of the deceased, is not maintainable. The trial Court rightly dismissed the application. Hence, I find no illegality or irregularity in the order passed by the trial Court and I find no merit in the Civil Revision Petition.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, the petitioner is at liberty to file necessary application under Order 22 Rule 4 of CPC to bring the legal representatives of the deceased defendants 11 and 12, if they are so advised.

05.12.2019

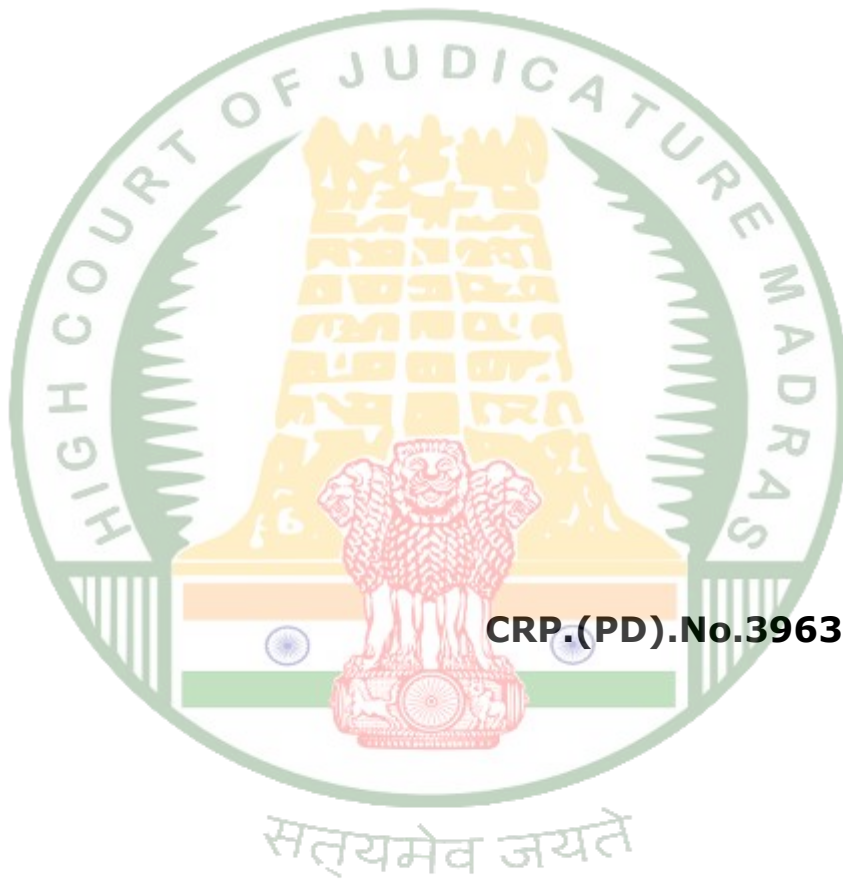
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Internet : yes/no
Speaking/Non-Speaking order
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Note : Issue order copy on 16.12.2019

To
The I Additional Subordinate Court, Salem.

V.BHARATHIDASAN

mrp



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