



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 16.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD).No.1180 of 2011

H.Abdul Gani

... Petitioner

-Vs-

Jamila Bi (Died)
Salima Bibi (Died)
1.Venmathi Aachi
2.Shahina Begum
3.Mujahith Ahamed
4.Musthari Jan
5.Khursheed Jan

... Respondents

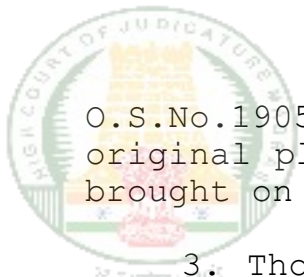
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 01.03.2011 made in I.A.No.412 of 2010 in I.A.No.3 of 2007 in O.S.No.1905 of 2006 on the file of the Principal District Munsif, Tiruchirapalli.

For Petitioner	:	Mr.K.Hemakarathikeyan
For R3	:	No appearance
For R4	:	Mr.S.Muthal Raj
For R1 & R2	:	Dismissed

O R D E R

The civil revision petition is filed challenging the order dismissing the application filed by the proposed party in I.A.No.412 of 2010 in I.A.No.3 of 2007 in O.S.No.1905 of 2006 seeking to have himself impleaded in the suit, which is pending before the Principal District Munsif, Tiruchirapalli.

2. The suit in question was filed for partition by the deceased Jamila Bi. The suit came to be decreed on 27.01.1997 and thereafter, the plaintiff had instituted a final decree proceedings in I.A.No.3 of 2007. By that time, the suit had been transferred to the file of the Principal District Munsif, Tiruchirapalli and re-numbered as



O.S.No.1905 of 2006. Pending the final decree proceedings, the original plaintiff had died and the respondents 3 and 4 herein were brought on record.

3. Though the revision petitioner was also a legal heir he was not brought on record. Therefore, the revision petitioner herein has taken up the application to have himself impleaded in the final decree proceedings on the basis that he is the eldest son of the plaintiff and he is also entitled to some extent of land from and out of the total extent of suit property. He would submit that he is a necessary party for allotting the shares.

4. The application was resisted by the third and fourth respondents herein stating that the revision petitioner is neither a necessary nor a proper party to the proceedings and that apart, the application has been moved at a belated stage nearly eight years after the death of the mother. The learned Principal District Munsif, Tiruchirapalli by order dated 01.03.2011, was pleased to dismiss the said application. Challenging the said order, the proposed party is before this Court.

5. Heard the learned counsel on either side.

6. It appears that the parties to the suit had alienated a portion of the property and challenging the same, the proposed party/revision petitioner had filed two suits in O.S.Nos.155 and 156 of 2010 for a declaration that the sale deeds are null and void. Therefore, the revision petitioner is already contesting his case on merits and he cannot now at this belated stage seek to be impleaded in the proceedings. The learned Principal District Munsif, Tiruchirapalli has rightly dismissed the said application. Taking note of the subsequent suits filed by the proposed party/revision petitioner, I do not find any infirmity in the order passed by the learned Principal District Munsif, Tiruchirapalli in I.A.No.412 of 2010. Consequently, the Civil Revision Petition is dismissed. However, there shall be no order as to costs.

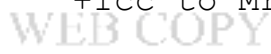
Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

akv



C.R.P. (PD) (MD) .No.1180 of 2011
16.09.2019

JMN (24.10.2019) 3P : 3C