



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2019

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (PD) (MD) No.1505 of 2011

and

M.P. (MD) No.1 of 2011

1.Mariammal
2.Subbammal

... Petitioners/Petitioners/Plaintiffs

Vs.

1.Subburaj ..1st Respondent/Respondent/Defendant
2.Balasubramanian
3.Kaliammal
4.Errappan
5.Solaiammal ... Respondents 2 to 5/Proposed respondents 2 to 5
/Nor parties in suit

PRAYER: Civil Revision Petition filed under Section 227 of Constitution of India against the fair and decreetal order dated 22.06.2011 passed in I.A.No.134 of 2011 in O.S.No.45 of 2009 on the file of the Subordinate Judge, Aruppukkottai.

For Petitioner	: Mr.R.R.Kannan
For R1	: Mr.Natarajan
For R2 & R3	: Dismissed
For R4 & R5	: No appearance

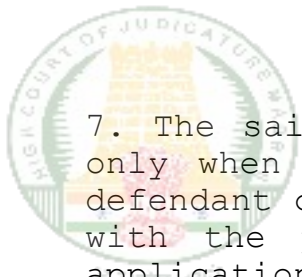
O R D E R

The plaintiffs are the revision petitioners before this Court challenging the order of the learned Subordinate Judge, Aruppukkottai, dismissing the application filed by the plaintiffs to implead the proposed parties as defendants 4 to 7 in the suit.

2.The said application was dismissed on the ground that the same has been taken out at the stage of trial.

3. The brief facts which have been put forth by the petitioner for setting aside the order passed by the learned Subordinate Judge are as follows:

The suit has been filed for partition by the plaintiffs, who are the sisters of the first defendant. The first defendant had originally filed a written statement on 28.10.2009, wherein he had not made any mention about the power said to have been executed by their deceased father in favour of the respondents 4 and 5 who in turn had executed the sale deed in respect of the respondents 6 and



7. The said fact has been brought to the notice of the plaintiffs only when an additional written statement was filed by the first defendant on 02.11.2010. Immediately, the plaintiff has come forward with the present petition. The learned Judge has dismissed the application only on the ground that it is belatedly filed and after trial.

WEB COPY

4. Heard both the learned counsels.

5. As submitted by the learned counsel for the petitioner the fact that the father had executed a power and sale deeds have been executed in pursuance of the said power was not brought to the notice of the court or the plaintiff in the originally written statement though such transactions have happened much prior to the filing of the written statement. The impugned petition has been moved since an additional written statement has been filed. Though the plaintiff would seek to implead the power agents as the defendants 4 and 5 and subsequent vendees as the defendants 6 and 7, this Court is of the view that it would suffice if the respondents 6 and 7 in I.A.No.134 of 2001 alone would be impleaded

6. In the result, the order passed by the learned Subordinate Judge, Aruppukkottai, is set aside. The plaintiffs are permitted to implead the respondents 6 and 7 as the defendants 4 and 5 in the suit in O.S.No.45 of 2009. Considering the fact that the suit is of the year 2009, the learned Subordinate Judge shall dispose of the said petition as expeditiously as possible, not later than 8 months from the date of receipt of a copy of this order.

7. In the result, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

CM

To

The Subordinate Judge, Aruppukkottai.

+1CC TO MR.RR.KANNAN, Advocate Sr. No.89176

+1CC TO MR.S.NATARAJAN, Advocate Sr. No. 89542

C.R.P. (PD) (MD) No.1505 of 2011
and M.P. (MD) No.1 of 2011

25.09.2019

SMV(CO)

TR(16.10.2019) 2P 4C

<https://hcservices.ecourts.gov.in/hcservices/>