



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 27.02.2019

DELIVERED ON : 03.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) No.2270 of 2015

and

M.P. (MD) No.1 of 2015

Aamena Bi

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its District Collector,
Tiruchirappalli

2.The Tahsildar,
Trichy Taluk, Bharathidasan Salai,
Cantonment, Trichirappalli.

3.Fathima Gani

.. Respondents

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the application in I.A.No.585 of 2015 in O.S.No.239 of 2012 on the file of the learned Principal District Munsif, Tiruchirappalli dated 27.08.2015.

For Petitioner : Mr.I.Robert Chandrakumar

For Respondents 1 and 2 : Mr.J.Gunaseelan Muthaiah, AGP

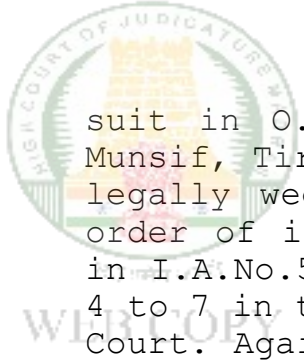
For 3rd Respondent : Mr.R.Sundar Srinivasan

ORDER

Heard Mr.I.Robert Chandrakumar, learned counsel appearing for the petitioner, Mr.J.Gunaseelan Muthaiah, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.R.Sundar Srinivasan, learned counsel appearing for the third respondent.

2.This petition has been filed against the order passed in I.A.No.585 of 2015 in O.S.No.239 of 2012 dated 27.08.2015 on the file of the learned Principal District Munsif, Tiruchirappalli.

3.The petitioner is the plaintiff and the respondents 1 to 3 are the defendants in the suit. The petitioner herein have filed a



suit in O.S.No.239 of 2012 before the learned Principal District Munsif, Tiruchirappalli for a prayer to declare the plaintiff as the legally wedded wife and legal heir of Mariyam Pitchai and for an order of injunction. In that suit, the petitioner filed a petition in I.A.No.585 of 2015 to implead the proposed parties as defendants 4 to 7 in the main suit and that petition was dismissed by the trial Court. Against the dismissal order, the petitioner has come forward with this revision petition.

4.On the side of the petitioner, it is stated that those who are opposing the martial status of the plaintiff are to be impleaded in the suit and that Mariyam Pitchai had three wives and out of the three wives, the first wife died and the petitioner herein has impleaded one of the wives as third respondent but failed to implead the children of Mariyam Pitchai and that the three sons of Mariyam Pitchai and the father of Mariyam Pitchai are to be impleaded in the suit and that these people are necessary to decide the issue in the suit. It is stated that as per Order 1 Rule 10 of C.P.C., at any stage of the suit, necessary parties can be added in the suit. It is stated that the omission of the proposed parties is not intentional and that the prayer will not be changed and that no other amendment is necessary in the pleadings and that the nature of the pleadings will not be changed and that there is no necessity for the trial Court to discuss the merits of the suit while disposing the I.A. Petition and that the proposed parties are necessary to decide the issue involved in the suit and prayed the petition to be allowed.

5.On the side of the respondents, it is stated that the third respondent is the second wife of Mariyam Pitchai. When the suit is posted for defence side witness, an I.A. Petition was filed by the petitioner to implead the children of the third respondent and that in paragraph no.4 of the plaint, it is stated that the children of the first wife of Mariyam Pitchai are in political line and that they are arranging to get legal heirship certificate without including the plaintiff's name as the legal heir of Mariyam Pitchai and that this reveals that the petitioner is aware of the presence of the proposed parties but the petitioner wantedly left them and has filed the suit. The trial Court has discussed that the petitioner herein was married to one Jayakumar prior to the so called marriage dated 11.02.1992 with Mariyam Pitchai and that the trial Court has come to the conclusion that even without impleading these proposed parties, the Court can decide the main issue.

6.It is seen that the petitioner claimed herself as the wife of one Mariyam Pitchai. It is admitted that Mariyam Pitchai had two more wives and out of that wedlock, he has children. It is stated that Mariyam Pitchai's father is still alive. The question to be decided in the suit is whether the petitioner is the legally wedded wife of Mariyam Pitchai ? and whether the petitioner is the legal heir of Mariyam Pitchai ? To decide this issue, the father of Mariyam Pitchai is a necessary party whether the petitioner is the wife and legal heir of Mariyam Pitchai is an issue which is



connected to the children of Mariyam Pitchai also. Except the reason of delay in filing the petition, this Court cannot find any fault in this petition.

7. For deciding the issue in the case impleading the children and the father of Mariyam Pitchai is necessary and in the above circumstances, this Civil Revision Petition is allowed and the order passed in I.A.No.585 of 2015 in O.S.No.239 of 2012 dated 27.08.2015 on the file of the learned Principal District Munsif, Tiruchirappalli is set aside. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Munsif,
Tiruchirappalli.

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate in SR-58801
+1 CC to M/s.I.ROBERT CHANDRA KUMAR, Advocate in SR-59170
+1 CC to Special Government Pleader in SR-59232

C.R.P. (PD) (MD) No.2270 of 2015

mrn

PK/12.04.2019 : 3P/5C