



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.03.2019
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI
C.R.P. (PD) (MD) No.2761 of 2015

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

WEB COPY

1.Selvarathinam (Died)
2.Emi Susila
3.Chinthia Jesi
4.George Benjamin .. Petitioners/Respondents/Defendants

Vs.

K.Amirthavalli (Died)
K.Venkadesh Nainar .. Respondent/Petitioner/Proposed
2nd Plaintiff

(The appellants 2 to 4 are the legal heir of the deceased
sole appellant as per order dated 31.10.2018 in
C.M.P.(MD)No.10631 and 10632 of 2018 in C.R.P.(MD)No.2761 of
2015 by RTJ)

Prayer: This Civil revision petition is filed under Article 227 of
the Constitution of India, to set aside the fair and decreetal
order made in I.A.No.38 of 2015 in O.S.No.18 of 2014 dated
20.08.2015 on the file of the Additional Sub Court, Tirunelveli.

For Petitioners : Mr.S.R.Anbarasu
For Respondent : Mr.A.Chidambaram

ORDER

Heard Mr.S.R.Anbarasu, learned counsel appearing for the
petitioners and Mr.A.Chidambaram, learned counsel appearing for
the respondent.

2.This Civil Revision Petition has been filed against the
order passed in I.A.No.38 of 2015 in O.S.No.18 of 2014 dated
20.08.2015 on the file of the Additional Sub Court, Tirunelveli.

3.The petitioners herein are the legal heirs of the
defendant and the respondent herein is the legal heir of the
plaintiff. One Amirthavalli filed a suit in O.S.No.18 of 2014
against one Selvarathinam seeking a prayer for declaration and for
recovery of possession. During the pendency of the suit, the
respondent herein filed a petition in I.A.No.38 of 2015 to implead
himself as the legal heir of the deceased plaintiff. The trial
court allowed the petition. Against the order, the petitioners
herein have filed the revision petition.



4. On the side of the petitioner, it is stated that the plaintiff had other legal heirs also but the respondent has filed impleading petition only to implead himself as a legal heir. It is stated that the property was purchased by the defendant in the year 2011 and the defendant is in possession of the property whereas the plaintiff died leaving behind her husband, two daughters and the respondent as her legal heirs and the husband and daughters were not impleaded in the petition. The alleged power deed and settlement deed are not valid and the husband and daughters of the plaintiff are necessary parties.

5. On the side of the respondent, it is stated that the mother of the plaintiff died on 19.09.2014 and that ten days prior to her death, she executed a general power deed in favour of her husband and her husband in turn has executed a settlement deed in favour of respondent on 12.09.2014. It is stated that an assignee can continue the case after the demise of the original owner and as per the settlement deed only the respondent is having a right over the property and the sisters and father of the respondent are not necessary parties.

6. It is seen that the mother of the respondent filed a suit for declaration and for recovery of possession. The suit was filed against the predecessor of the petitioners herein. The fact that deceased left the petitioners and two legal heir is not disputed by the respondent. The respondent is claiming title through a settlement deed, the settlement deed was executed by the father in the capacity of power agent of the mother. The claim of the petitioner is that the power deed and settlement deed are fraudulent.

7. In the above circumstances, it is necessary for the legal heir of plaintiff to be impleaded in the suit. No prejudice will be caused to the respondents, if the other legal heirs are impleaded in the suit. Hence, the respondent is directed to file a impleading petition to implead the other legal heirs of the plaintiff to avoid multiplicity of the case.

8. With the above direction, this Civil Revision Petition is **allowed** and the order passed in in I.A.No.38 of 2015 in O.S.No.18 of 2014 dated 20.08.2015 on the file of the learned Additional Sub Judge, Tirunelveli is set aside. No costs. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //



To

The Additional Sub Judge, Tirunelveli.

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+1 CC to M/s.S.R.ANBARASU, Advocate (SR-55994 [F] dated 22/03/2019)

MRN

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21.03.2019

KM/ (06.05.2019) 3P 3C