



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 06.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
CRP (MD)No.1972 of 2019

WEB COPY

1. T.Chandrakumar
2. Uma
3. Selvan R.Ahil (Minor)
4. Selvan R.Rahul Rajan (Minor) ... Petitioners

versus

1. Tharmalingam Nadar
2. Annalekshmi
3. Kalaikumari @ Rajathi ... Respondents

Revision Petition filed under Article 227 of Constitution of India, against the order dated 05.08.2019 and 19.09.2019 passed in unnumbered suit on the file of the learned Principal Subordinate Judge, Nagercoil.

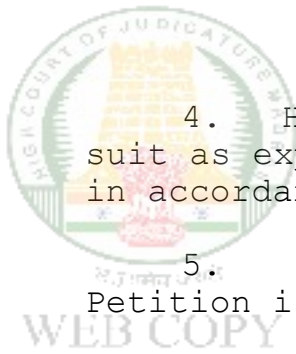
For Petitioners : Mr.D.Nallathambi

ORDER

This Civil Revision Petition has been filed against the return orders dated 05.08.2019 and 19.09.2019 passed in unnumbered suit on the file of the learned Principal Subordinate Judge, Nagercoil.

2. It is the contention of the learned counsel for the revision petitioner that the suit was filed for partition, however, the same was returned for some reasons on 05.08.2019 and after complying with the same, the petitioner re-presented the papers on 20.08.2019. In spite of due compliance of return, the Court below once again returned the papers on 19.09.2019 stating that as per the ruling of the Hon'ble Supreme Court reported in 2019(5) CTC 110, the property is the self acquired property of the father, since succession opened after 1956, even as per the case of the plaintiff. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. Considering the submissions made by the revision petitioner and after going through the return made by the Court below, it is not for the Court below to decide the matter as to whether the subject matter of the property is the self acquired property or not even before numbering the suit itself. Further, all those facts can be considered only after conducting full-fledged trial. Therefore, the Court below is wrong in returning the suit papers.



4. Hence, this Court directs the Court below to number the suit as expeditiously as possible and decided the same on merits and in accordance with law.

5. With the above direction, the present Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

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To

The learned Principal Subordinate Judge,
Nagercoil.

Copy to:

The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai

(to return the originals to the
learned counsel for the revision petitioner)

+1 CC to Mr.D.NALLATHAMBI, Advocate (SR-96290[F] dated 06/11/2019)

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MK (29.11.2019) 2P 4C