

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P.PD 1970 of 2015

and
M.P. 1 of 2015

1. P.Sadasivam
2. P.Navanayagam
3. G.nagarajan
4. G.Natarajan

... Petitioners

Versus

K.Murugesan

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and final order dated 30.01.2015 made in I.A. 667 of 2014 in O.S. 396 of 2011, on the file of II Addl. Sub-Court, Salem.

For Petitioners : Ms.Zeenath Begum

For Respondent : Mr.Kempraj

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioners' application to implead them as party defendants in the suit.

2. The respondent herein filed a suit for partition, and separate possession of the suit schedule property. The above suit has been filed on the ground that, the suit schedule property was originally belongs to one Ramasamy Chettiar and his two sons viz., Subbarayan and Kandasamy. Kandasamy pre-deceased his father Ramasamy Chettiar. During his life time, Ramasamy Chettiar has executed a Will dated 26.03.1958 bequeathing his property to his son Subbarayan and son born to another brother Kandasamy. The plaintiff is son of Kandasamy, and grandson of Ramasamy, who was a beneficiary under the Will, and other son viz., Subbarayan was died leaving behind his wife, a son of Subbarayan was died, and his legal heirs are defendants 1 to 4. Out of six daughters, one daughter Yamunabai died, and five daughters of Subbarayan are defendants 5, 7 to 10. They are entitled to half share in the property. Now, they have partitioned the property. Pending suit, the petitioners have filed an application to implead themselves as party defendants in the suit, on the ground that, the deceased Ramasamy Chettiar, apart from two sons viz., Subbarayan and Kandasamy, has two more

daughters by name Meenakshiammal and Ponnammal. The defendants 1 to 11 in the suit are legal heirs of Subbarayan, and Plaintiff is the legal heir of Kandasamy. The defendants 12 to 15 are the legal heirs of other two daughters Meenakshiammal and Ponnammal. But, the petitioners are direct legal heirs of Meenakshiammal. While impleading other legal heirs of Meenakshiammal, plaintiff deliberately omitted to implead the petitioners as party defendants in the suit. Hence, the present application has been filed. That application came to be dismissed by the Trial Court. Challenging the same, the present Civil Revision Petition has been filed.

3. I have considered the submissions made by learned counsel appearing for petitioners and perused the records carefully.

4. From the admitted genealogical tree placed before this Court, it could be seen that, deceased Ramasamy Chettiar has two sons and two daughters, viz., Subbarayan, Kandasamy, Meenakshiammal and Ponnammal. The plaintiff is the son of Kandasamy. The defendants 1 to 11 are legal heirs of Subbarayan. Whereas 12th defendant is son of

Meenakshimammal. The 13th defendant is grand daughter of Meenakshiammal. The 14th defendant is great grand daughter of Meenakshiammal. Now, the grievance of the petitioners is that, the other legal heirs of Meenakshiammal were already impleaded as party defendants, since the petitioners are direct legal heirs of Meenakshiammal, they should also necessarily be impleaded as party defendants in the suit. However, the Trial Court has dismissed the application on the ground that, in the earlier suit filed by the plaintiff against the legal heir of 4th daughter viz., Ponnammal, there is a finding that, they are not entitled to get any share in the suit schedule property. However, the defendants 12 to 15 not been impleaded as legal heir of Meenakshiammal. However, considering the fact that, the petitioners are also legal heirs of Meenakshiammal, and grand sons of Ramasamy Chettiar claiming right over the suit schedule property, and other legal heirs of Meenakshiammal were added as party defendants, I am of the considered opinion that, the petitioners are also necessarily be impleaded as party defendants in the suit. In the above circumstances, I am inclined to set aside the order dated 30.01.2015 passed by the court

below in I.A. 667 of 2014 in O.S. 396 of 2011. Accordingly, this Civil Revision Petition stands allowed.

5. However, if the proposed parties intend to file any written statement in the suit, they have to file their written statement within a period of four weeks from the date of receipt of the copy of this order, and thereafter, as the suit is pending from the year 2011, the Trial Court is directed to proceed with the suit and dispose of the same within a period of six months. No costs. Consequently, the connected Miscellaneous Petition is closed.

17.02.2020

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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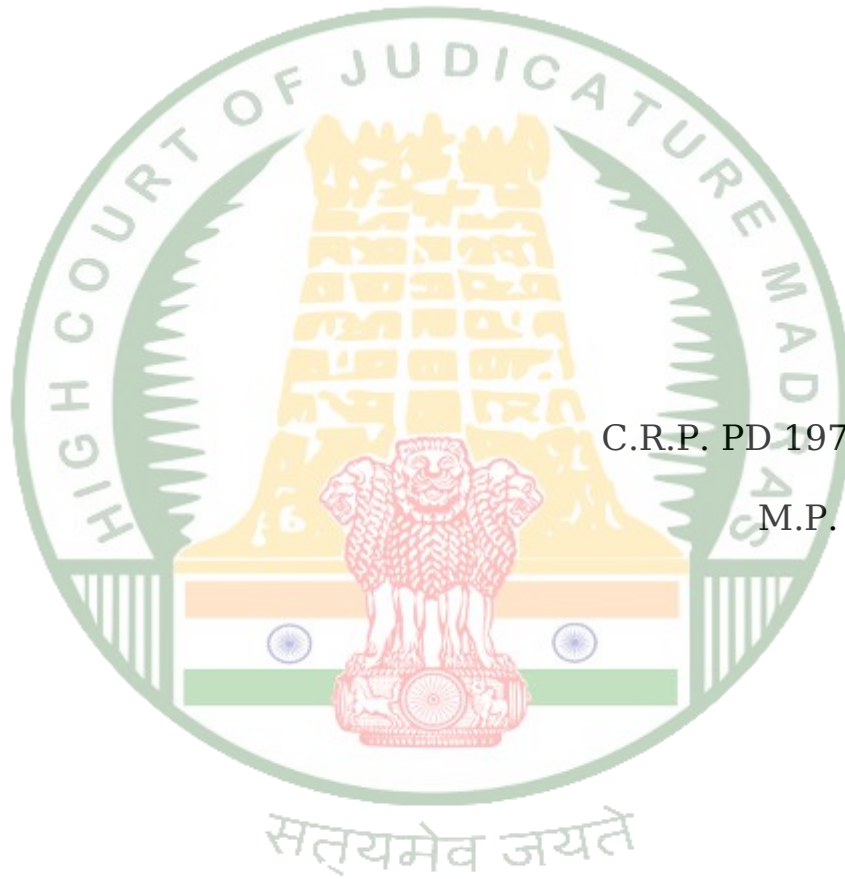
To

Addl. Sub-Judge,
Salem.

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V.BHARATHIDASAN,J.

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