

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CRP(PD) No.4734 of 2013

and

MP.No. 1 of 2013

1.Sampoornam
2. Savitha
3. Geetha

... Petitioners

Athayammal (died)
Sengodan (died)

Vs.

1. Shanmugam
2. K.Mallika
3. Saravanan
4. Krishnamoorthy

... Respondents

Prayer: Civil Revision Petition is filed under Section 227 of the Constitution of India to set aside the fair and decretal order dated 20.09.2013 made in IA.No.338 of 2013 in OS.No.59 of 2012 on the file of the learned Sub Court, Tiruchengode by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.N.Ponraj for R2 to R4

ORDER

This Civil Revision petition has been filed by the petitioners/plaintiffs against the dismissal of their application in IA.No.338 of 2013 in OS.No.59 of 2012 on the file of the Sub Judge, Tiruchengode dated 20.09.2013.

2. The petitioners herein had filed an application in IA.No.338 of 2013 in OS.No.59 of 2012 on the file of the Sub Judge, Tiruchengode under Order 1 Rule 10(2) and Section 151 of CPC to implead the respondents 3 and 4 herein as defendants 5 and 6 in the suit. The learned Sub Judge had dismissed the said application on 29.09.2013. Feeling aggrieved, the petitioners/plaintiffs have filed the present Civil Revision Petition.

3. Heard Mr.N.Manokaran, the learned counsel for the petitioners and Mr.N.Ponraj, the learned counsel for the respondents 2 to 4.

4. The learned counsel for the petitioners has submitted that the

petitioners herein had filed a suit in OS.No.59 of 2012 on the file of the Sub-Judge, Tiruchengode against one Athayammal, Sengodan, Shanmugam and Mallika for the relief of partition and separate possession. He further submitted that subsequently, the petitioners came to know that the said Athayammal had executed a Will in favour of the said Mallika and her sons (proposed parties) on 06.07.2001 and thereafter, the said Mallika had executed a release deed in favour of her sons namely Saravanan and Krishnamoorthi on 22.07.2010 and hence, the petitioners had filed an application in IA.No.338 of 2013 to implead the aforesaid Saravanan and Krishnamoorthi as defendants 5 and 6, but, the learned trial court had dismissed the said application as the petitioners have not produced any materials to show that the said Athayammal had executed a Will and also the said Mallika had executing any release deed in favour of the proposed parties. He further submitted that during pendency of this Civil Revision Petition, the parties have settled the issue and for recording the said settlement before the trial court, the proposed parties have to be impleaded as defendants in the suit and hence he prayed to allow this Civil Revision Petition and set aside the order passed by the trial court in I.A.No.338 of 2013 in

OS.No.59 of 2012 and allow the said application.

5. The learned counsel for the respondents has fairly conceded that the petitioners herein and the respondents 2 to 4 have settled the matter and he has no objection for allowing this Civil Revision Petition.

6. Considering the aforesaid submissions, this Civil Revision Petition is allowed. No costs. The order passed by the Sub-Judge, Thiruchengode in IA.No.338 of 2013 in OS.No.59 of 2012 is set aside and the said application is allowed. Consequently connected miscellaneous petition is also closed.

10.12.2020

Vv

Index : Yes/No
Internet : Yes/No

To
The Sub Court,
Tiruchengode.

P.RAJAMANICKAM.J.,

Vv



**C.R.P(NPD).4734 of 2013
and
MP.No.1 of 2013**

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