

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAM

C.R.P.Nos.2535 and 2536 of 2018 and

C.M.P.Nos.15407 and 15408 of 2018

1. K.Sharmila
2. Gowthaman

...Petitioners in both the petitions

Vs

1. K.Pushpa
2. D.Mangayarkarasi
3. D.Arunagiri
4. The Sub Registrar
Sub Registrar Office,
Thiruvottiyur, Chennai - 19

..Respondents in
C.R.P.No.2535 of 2018

1. D.Arunagiri
2. D.Thirugnana Sambantham
3. A.Narayanani
4. T.Sangeetha
5. K.Pushpa

..Respondents in C.R.P.No.2536 of 2018

Prayer in both the Petitions: Civil Revision Petitions are filed under Article 227 of the Constitution of India to allow the Civil Revision Petitions by setting aside the fair order and decreetal order dated 26.06.2018 in I.A.Nos.406 and 437 of 2018 in O.S.Nos.122 and 123 of 2016 on the file of District Munsif Court, Thiruvottiyur respectively.

For Petitioners : Mr.M.Harikumar for
M/s A.R.Nixon

For Respondents: Mr.S.Dhanushkodi for R1
Mr.P.Balamurugan for R3
Mr.T.M.Pappiah
Special Government Pleader for R4
For R2 - No appearance

C O M M O N O R D E R

The plaintiff and the proposed party, who sought for impleading in the two suits, namely, O.S.No.122 of 2016 and

O.S.No.123 of 2016 on the file of the District Munsif Court, Thiruvottiyur have come up with this Revision, aggrieved by the order dismissing their application seeking impleading of the proposed party.

2. The suit in O.S.No.122 of 2016 has been filed for a declaration that the sale deed dated 20.11.2016 executed by the defendants 1 and 2, namely, mother and grand mother of the 1st petitioner in favour of the 3rd defendant is null and void and for cost of the suit. The 2nd suit, namely, O.S.No.123 of 2016 has been filed by the 1st petitioner seeking a declaration that the deed of cancellation dated 20.10.2008 cancelling the settlement deed dated 21.04.2010 is null and void and for declaration that the settlement deed executed by the defendants 1 and 2 in favour of the defendants 3 and 4 is also null and void as a consequence of declaration that the cancellation deed dated 21.04.2008 is bad.

3. Both the suits have been initiated by the 1st petitioner, as a heir of one Kumaraguru. The 1st defendant is the mother of the 1st petitioner and the accusation against her is that she had sold the property of the minors without permission of the Court. While the suit was pending the 2nd petitioner, namely, son of the said Kumaraguru had attained majority. The sole plaintiff has sought to implead him as co-plaintiff along with her, since he was also declared as legal heir by the deceased Kumaraguru by the competent civil court under the decree passed in a suit on 20.03.2013. This application for impleading filed in I.A.Nos.406 and 437 of 2018 came to be dismissed by the learned District Munsif, Thiruvottiyur on the ground that there is no explanation for not joining the 2nd petitioner filing as a plaintiff at the time of filing of the suit. The learned District Munsif has found that the petition has been filed without proper reason and the proposed party has not filed a supporting affidavit. I am unable to sustain the reasoning of the learned District Munsif, Thiruvottiyur.

4. The status of Gawthaman, son of Kumaraguru is not disputed. The issues involved in both the suits pertain to the validity of certain documents executed touching upon the estate of Kumaraguru. Therefore, the son of Kumaraguru, proposed party has got all the interest in the subject matter of the suit. The fact that he has not joined the plaintiff earlier, will not or cannot prevent the court from impleading him in the suit to have a proper adjudication of all issues relating to the title of the properties. By not impleading him in these suits, the court will only pave way for multiplicity of proceedings. The proposed party is very much a necessary party, considering the scope of the suits. I am therefore of the considered opinion that the trial court was not right in dismissing these

applications. Hence both the Civil Revision Petitions are allowed.

5. The Applications in I.A.Nos.406 and 437 of 2018 will stand allowed and the proposed party is impleaded as 2nd plaintiff in the suits. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

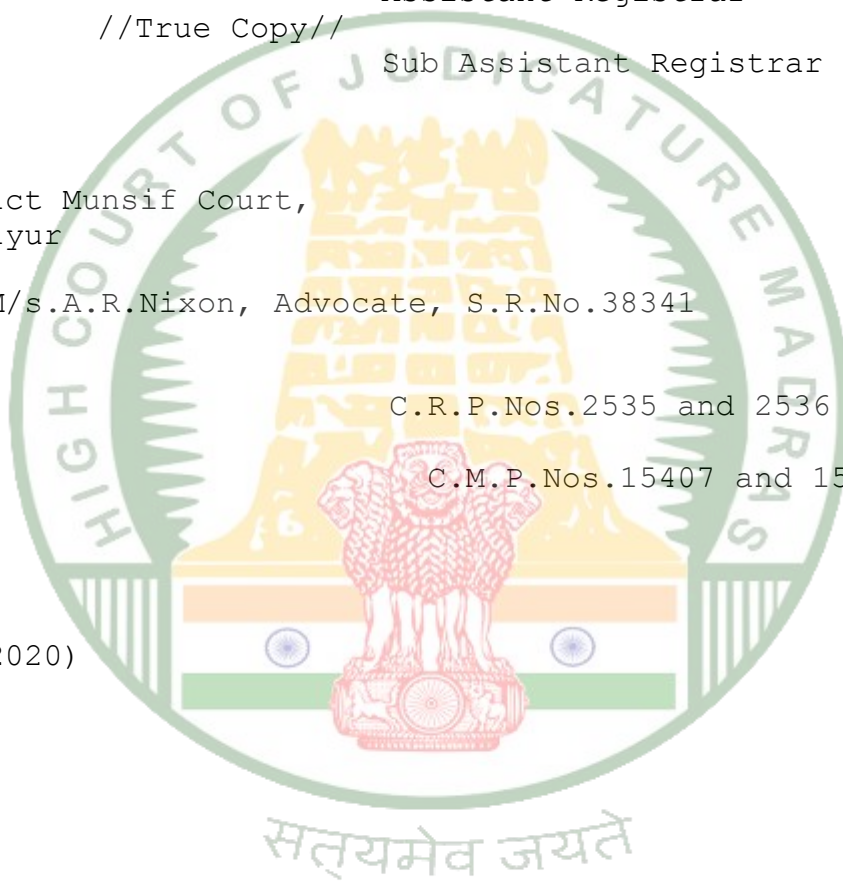
The District Munsif Court,
Thiruvottiyur

+2ccs to M/s.A.R.Nixon, Advocate, S.R.No.38341

C.R.P.Nos.2535 and 2536 of 2018 and

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GP(CO)
RV(22/12/2020)



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