

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. (NPD) 2685 of 2019

and

CMP No.17710 of 2019

D. Sivagurunathan

...Revision Petitioner

Versus

Krishnaveni Ammal (died)

1. Dhanalakshmi

K. Muthukumaraswamy (died)

2. The Special Officer
Maduranthakam Co-operative Sugarcane Mills
Padalam, Madurantakkam Taluk

Devagiammal (died)

3. Rajeswari

4. Rajendrababu

Dillibabu (died)

5. Umamageswari

6. Baskar

... Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair Order and Decreetal order dated 07.02.2019 passed in I.A.No.80/2018 in A.S.No.9/2016 by the learned Subordinate Judge at Maduranthakam, Kanchipuram District.

For Petitioner : Mr.N. Nagu Sah

For Respondents : Mrs.C.R.Rukmani

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application filed in I.A.No.80/2018 in A.S.No.9/2016, on the file of the learned Subordinate Judge at Maduranthakam, Kanchipuram District, seeking to implead the petitioner herein as a party respondent in the appeal.

2. One Krishnaveni Ammal and Danalakshmi Ammal filed a suit for recovery of possession, and the suit has been decreed. Against which, the defendants have filed an appeal, which came to be dismissed, confirming the judgment and decree passed by the trial court. Challenging the same, the defendants filed the Second Appeal in S.A.No.1390 of 2000. This Court, by a Judgment dated 26.04.2013, allowed the Second Appeal, and remanded back the matter to the Trial Court for fresh hearing. Once again, the trial court has decreed the

suit. Challenging the same, an appeal is pending. Now pending appeal, the petitioner has filed an application to implead himself as party respondent in the appeal, on the ground that, during the life time of first plaintiff Krishnaveniammal, she has executed a Will in his favour. Hence, he is claiming interest over the suit properties. That application came to be rejected by the court below. Challenging the same, the present Civil Revision Petition has been filed.

3. Heard Mr.N. Nagu Sah, learned counsel appearing for the petitioner.

4. The present application has been filed by the petitioner on the ground that, the first plaintiff Krishnaveni Ammal has executed a Will in his favour in the year 1994. Whereas, the suit has been filed by Krishnaveni Ammal in the year 1994 itself stating that, the suit properties have been settled in favour of the second plaintiff Dhanalakshmi, who is none other than the mother of the petitioner. After the death of Krishnaveni Ammal, the petitioner's mother is contesting the suit. If at all, any Will is executed by Krishnaveni Ammal in favour of the petitioner, the petitioner would have got himself impleaded in the earlier round of litigation, and having kept quiet all these years, at this stage, the petitioner cannot prefer an

application to implead himself as a party respondent based on the alleged Will. The Court below after considering the materials, has rightly dismissed the application. I also find no illegality or irregularity in the order passed by the Court below, and I find no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.02.2020

bga

To

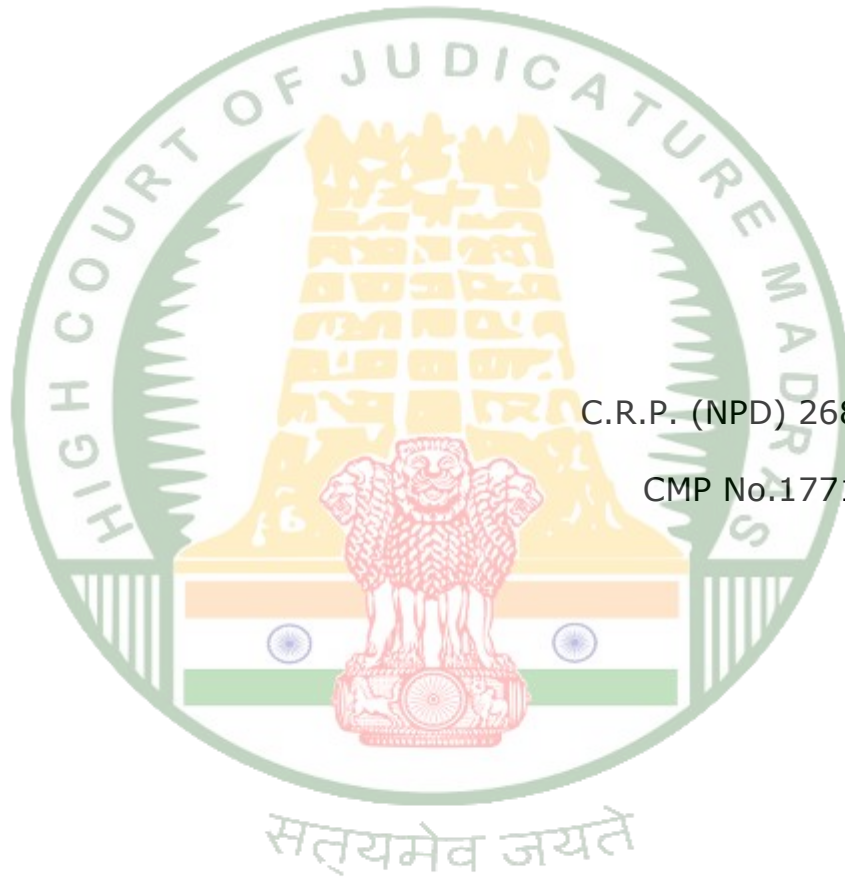
The Subordinate Judge,
Maduranthakam,
Kanchipuram District.



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V.BHARATHIDASAN,J.

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