

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.No.1938 of 2020

1.Veeramuthu
2.Mathiyalagan
3.Manimaran
4.Kamala

... Petitioners

Versus

1.Tamilvanan
2.Latha

.... Respondents

Civil Revision Petition filed under Section 227 of the Constitution of India, praying to set aside the fair order and decreetal order dated 24.10.2017 passed in I.A.No.97 of 2017 in O.S.No.38 of 2016 on the file of the learned II - Additional Subordinate Judge, Cuddalore.

For Petitioners : Mr.D.Baskar

For Respondents : Notice Dispense with

ORDER

The petitioners herein are the defendants in the suit.

2.The first respondent herein/plaintiff filed the suit in O.S.No.38 of 2016, under the name of Tamilvanan, seeking partition of the property in question. The defendants in the suit had filed a written statement alleging that the brother of the first defendant by name Tamilvanan died long back, before filing this suit. But, the plaintiff, who claims himself as Tamilvanan is not the Tamilvanan, namely his brother. Thereafter, the plaintiff/Tamilvanan filed an application in I.A.No.97 of 2017, for amending the plaint to amend his name as Tamilvanan @ Ambalavanan by stating that Ambalavanan is his official name and Tamilvanan is a pet name called in his house. Subsequently, the said I.A was allowed. Hence, the present Civil Revision Petition.

3.The learned counsel for the petitioners/defendants would contend that the plaintiff/Tamilvanan is Ambalavanan, he does not have any name like Tamilvanan. At the instances of the third party, he has filed the present suit for partition only to disturb his mental peace and he has also restricted his right after the death of his brother, whose name is also

Tamilvanan.

4.The learned counsel for the petitioners has also stated that the first respondent/plaintiff is a retired court staff and by misusing his position, he instituted the suit and further, he seeks a direction to the learned District Judge, Namakkal to look into the matter by deciding it as preliminary issue.

5.Admittedly, the suit was filed by the Tamilvanan. Subsequently the amendment was allowed to alter his name as Tamilvanan @ Ambalavanan. Since, the plaint is now amended, by amending the name of the plaintiff as Tamilvanan @ Ambalavanan, whether the plaintiff is the brother of the first defendants or not, has to be decided as a preliminary issue by the trial court.

6.Taking into consideration the entirety of the case, I am inclined to dispose of this present Civil Revision Petition with the direction to the learned II-Additional Subordinate Judge, Cuddalore, to frame the following issues (i) as to whether the plaintiff is the brother of the first defendant or not and (ii) whether the plaintiff is Ambalavanan or Tamilvanan as disputed by the defendants and to decide those preliminary issues, within a period of twelve weeks, after settlement of the pleadings. Since now the plaintiff is amended, and it is open to the petitioners/defendants to file an additional written statement, if they are so advised, within a period of four weeks and the learned District Judge, shall decide these preliminary issues as directed in Clause (i) & (ii), within a period of eight weeks thereafter.

7.With these observation and direction, the Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

klt

To

The II - Additional Subordinate Judge,
Cuddalore.

CRP.No.1938 of 2020

SSV(CO)
CB(10/12/2020)