

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. (NPD) 3319 of 2019

and

C.M.P. 21558 of 2019

1. Palanisamy
2. Irua Gounder
3. Palanisamy
4. Palani
5. K.Kandasamy

... Petitioners

Versus

Marimuthu Gounder (died)
Irua Gounder (died)
Palani Gounder (died)
Chinna Gounder (died)

1. Palanisamy
2. Murugesan
3. Irua Gounder

Nallirusa Gounder (died)

4. Palaniyappan
5. Marimuthu
6. Irua Gounder
7. Chinnathambi
8. Ammasi
9. Chinnathayee
10. Dhanalakshmi

11. Rajammal
12. Iruyayee
13. Marakkal
14. Pavayee

Palaniammal (died)

15. Pavayee
16. Palaniyammal @ Iruyayee
17. Iruyayee
18. Iruyayee
19. Kailasapathi
20. Mariammal
21. Iruyayee
22. Rajathi
23. Kannammal
24. Aiyammal
25. Alamelu @ Santhi
26. Janaki
27. Chinnathayee
28. Gokularaj
29. Sundhari

Iruyasa Gounder (died)

Lakshmana Gounder (died)

Appavu Asari (died)

30. Raji
31. Ramasamy
32. Periyathayee
33. Kaanthammaal

Pappathi (died)

34. Raththanammaal
35. Velu
36. Amirtham
37. Pavayee @ Mavayee
38. Chinnathayee

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 29.08.2019 passed by the learned III Addl. District Munsif Court, Salem in I.A. 1542 of 2011 in O.S. 949 of 1961.

For Petitioners : Mr.A.Thiyagarajan

For Respondents : Mr.R.Marudhachalamurthy
for R2

Mr.M.Thanu for R9

ORDER

This Civil Revision Petition has been filed against the order allowing the application to pass a final decree in terms of preliminary decree, and appointing an advocate commissioner to divide the suit properties as per the preliminary decree.

2. Earlier, a preliminary decree has been passed in a suit for partition in O.S. 949 of 1961 dated 18.12.1961. Thereafter, a final decree application has been filed by legal representatives of the plaintiffs, in I.A. 1542 of 2011. In the above application, the petitioners have filed an objection stating that, the District Munsif Court, Salem has no territorial jurisdiction to hear the final decree application as the entire property has been situated

within the jurisdiction of District Munsif Court, Sankari. That contentions have been negated by the court below, and the Commissioner has been appointed to divide the property as per the preliminary decree. Challenging the same, the present Civil Revision Petition has been filed.

3. Mr.A.Thiagarajan, learned counsel appearing for petitioners would contend that, since the properties are situated at Sankari, only the District Munsif Court at Sankari alone has jurisdiction to decide the final decree application, and the District Munsif Court, Salem cannot decide the issue.

4. I have considered the rival submissions made by learned counsel appearing for petitioners as well as learned counsel appearing for respondents 2 and 9 and perused the records carefully.

5. On perusal of records, it could be seen that, the properties are situated in Sankari, and the suit has been filed before the District Munsif Court, Sankari in O.S. 631 of 1961, subsequently, it was transferred to District Munsif Court, Salem, and renumbered as O.S. 949 of 1961. Thereafter, the District Munsif Court, Salem had passed a preliminary decree by

judgment and decree dated 18.12.1961. Considering the above circumstances, the court below has negated the petitioners contentions regarding jurisdiction. I have also gone through the materials available on record, I 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.

6. However, considering the fact that, in the suit, preliminary decree has been passed in the year 1961, for more than 58 years, the final decree was not passed. In the above circumstances, the court below is directed to take the final decree application on file, and to dispose the same after hearing the petitioners as well as respondents within a period of six months from the date of receipt of the copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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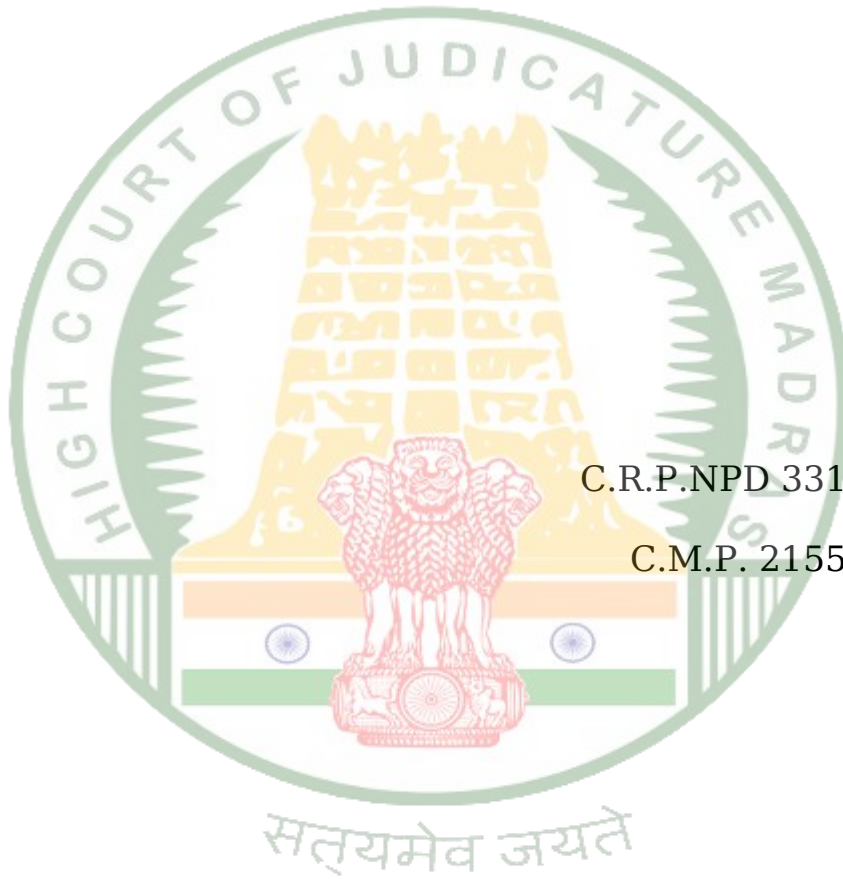
III Addl. District Munsif, Salem.

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V.BHARATHIDASAN,J.

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