

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Fifteenth day of October Two Thousand Twenty

PRESENT

THE HON`BLE DR.JUSTICE G.JAYACHANDRAN

CMP No.15602 of 2017

IN SA.1666/2008

RAJAGURU

[PETITIONER]

Vs

1 MANOHAR
2 VELAYUTHAM

[RESPONDENTS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to implead the petitioners name in the Second appeal as Respondent in the interest of justice and thus render justice in SA.No.1666 of 2008.

Order : — This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.R.PRAMEELA FOR M/S. K.RAGHURAMAN, Advocate for the petitioner and of MR.R.SUNIL KUMAR, Advocate for the 1st respondent and of MR.B.MAHENDRA NAIDU, Advocate for the 2nd respondent, the court made the following order:-

(The case has been heard through video conference)

The suit for declaration and injunction filed by the 1st respondent against the appellant. Brother of the 1st respondent is now taken out the petition to get implead himself in the second appeal claiming that he has right and interest in the suit property and he is a necessary party.

2. On reading the pleadings of the contesting party and the affidavit filed by the present petitioner to get implead, this Court finds that sum and substance of the litigation is in respect of the portion of 10x10 feet property, which form part of the larger extent of land, which was held by one Natesa Mudaliar. Natesa Mudaliar during his life time had bequeathed a will in favour of his sons. One of the sons Velayudham was allotted the Northern portion of the property and Rajaguru, the present petitioner who wants to get impleaded, was allotted the Southern portion of the property,

the disputed portion of 10x10 feet is in the Northern portion of the property and its owner Velayathuam is contesting the right and title over. The present petitioner who wants to get implead have no right over the property if the *Will* of his father Natesa Mudaliar is true and valid.

3. It is contended that even in the year 2002, the present petitioner objected to get the electricity connection and exercised his right over the disputed property, if it is so, he should have filed the suit and not his brother Velayutham. Even according to the petitioner herein, his right in the property of Natesa Mudaliar is restricted to the southern portion, which is not the subject matter of the suit. Therefore, the petitioner is not a necessary party.

4. The petition to implead is filed at the stage of Second Appeal which this Court finds as interference of judicial process with ulterior motive. Therefore, implead petition is dismissed as devoid of merits with costs of Rs.10,000/- payable to the appellant.

5. Post the matter for final hearing on 05.11.2020.

6. After pronouncing the above order, but before signing the learned counsel for the petitioner had tendered apology and addressed e-mail dated 19.10.2020 to the Chief Justice to reconsider the costs awarded on the petitioner, he being a senior citizen and not in a position to pay the costs. Taking into consideration, the said request, the costs imposed on the petitioner is withdrawn.

-sd/-

15/10/2020

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRICIPAL DISTRICT MUNSIF
CUDDALORE.

2 THE PRINCIPAL SUBORDINATE
JUDGE, CUDDALORE.

C.C. to M/S. K.RAGHURAMAN Advocate on payment of necessary charges

Order

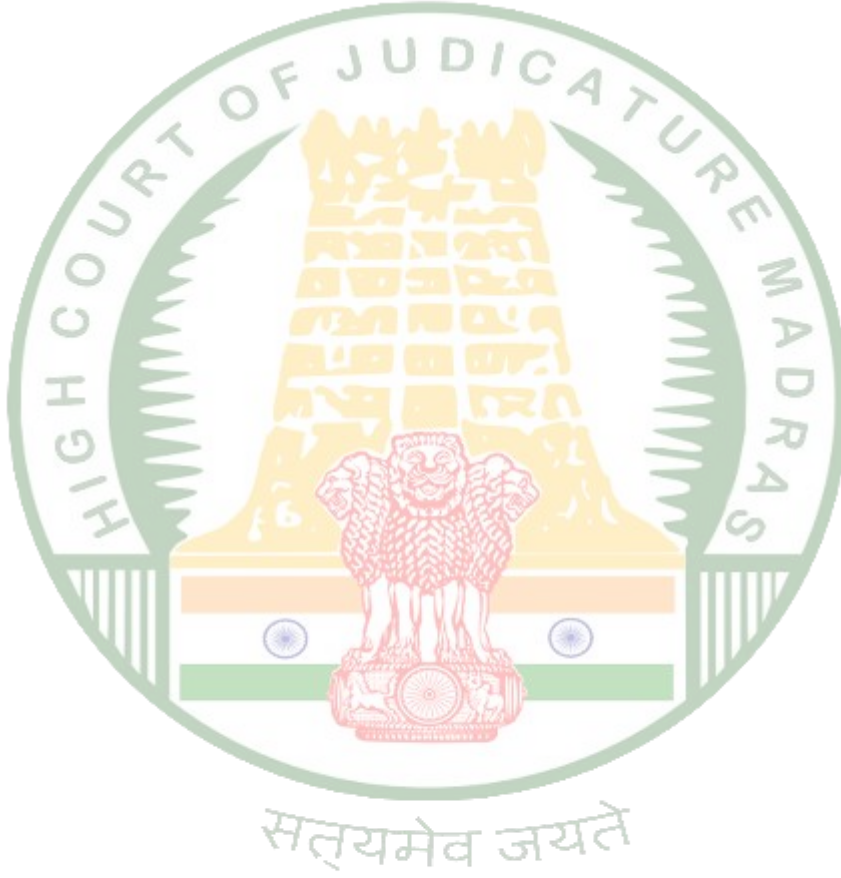
in

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in
SA.1666/2008

Date :15/10/2020

From 26.2.2001 the Registry is issuing certified
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RR 03/11/2020



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