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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2020

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No. 127 of 2016

C.M.P. (MD) No.570 of 2016

Lakshmi

... Petitioner/R-1/Plaintiff

vs.

1. Ramasamy @ Raman

2. Natarajan

3. Thambayammal

4. Murugan

5. Ganesan

6. Nallammal

7. Selvi

8. Murugesan

9. Eswaran

...R-1 & 2/R-2 & 3/Defendants

...R-3 to 9/Petitioners/3rd parties

PRAYER : Petition filed under Article 227 of Constitution of India, to call for the records and set aside the fair and decreetal order, dated 14.10.2015 in I.A. No. 409 of 2014 in O.S. No. 90 of 2014 on the file of the Sub Court, Vedasanthur and allow this Civil Revision with costs.

For Petitioner : Mr. H. Lakshmi Shankar

For R-1 & R-2 : No Appearance

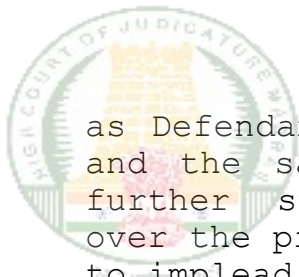
For R-3 to R-9 : Mr.N. Tamilmani

ORDER

This petition has been filed to set aside the fair and decreetal order, dated 14.10.2015 in I.A. No. 409 of 2014 in O.S. No. 90 of 2014, on the file of the Sub Court, Vedasanthur and allow this Civil Revision with costs.

2. The learned counsel appearing for the revision petitioner submits that she has filed a suit in O.S. No.90 of 2014, on the file of the Sub-Court, Vedasanthur for declaration and permanent injunction. During the pendency of the suit, the respondent Nos.3 to 9 herein/3rd parties have filed a impleading petition in I.A. No.409 of 2014 in O.S. No.90 of 2014 to implead themselves as respondent Nos.3 to 9 in the suit and the same was allowed on 14.10.2015. Against the said order, the revision petitioner/plaintiff has filed the instant Civil Revision Petition.

3. The learned counsel appearing for the respondent Nos.3 to 9 herein submits that the respondents have filed I.A. No.409 of 2019 under Order 1 Rule 10(2) Section 151 of CPC., to implead themselves



as Defendant Nos.3 to 9, on the file of the Sub Court, Vedasanthur and the same was allowed by order, dated 14.10.2015. He would further submit that the respondent Nos.3 to 9 have rights over the property and hence, they have filed the impleading petition to implead themselves as defendant Nos.3 to 9.

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4. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents and perused the material documents available on record.

5. Considering the facts of the case, originally, the disputed properties belonged to one Arunachalam Pillai and he had three sons and two daughters, namely; Ramasamy, Perumal, Rengasamy, Muthammal and Thaiyalayi Ammal. The petitioner Nos.2 & 3 are the sons and the first petitioner is wife of Perumal Pillai and Petitioner Nos.4 & 5 are daughters and Petitioner Nos.6 & 7 are sons of Rangasamy Pillai in I.A. No. 409 of 2014. All the above facts are admitted by both the parties. As per revision petitioner/plaintiff, the properties belonged to Arunachalam Pillai and the same were partitioned orally. The legal heirs of Perumal and Ramasamy denied and had stated that the properties are not partitioned. Therefore, the proposed parties i.e., the Legal heirs of Perumal and Ramasamy are necessary parties in the suit. The respondent Nos.3 to 9 have filed only Chitta, dated 01.10.2014 and they have not filed any document to show that they are in joint possession. On the other hand, the revision petitioner had filed number of documents to prove that there was partition and also filed a sale deed, dated 11.09.1975 executed by Rangasamy and in the sale deed, the said Rangasamy admitted that the ancestral properties were orally partitioned. Another partition deed, dated 25.06.2009 executed by proposed parties was filed by the plaintiff and the same were subdivided and partitioned between themselves. Survey No.1043 was subdivided into S.No.1043/6d, S.No.1043/6c, 1043/7B which shows that the properties belonged to Arunachalam were already partitioned and got separate Pattas. But, the Court below allowed the impleading petition based on the Chitta, dated 01.10.2014. On perusal of documents, it is revealed that, after 1974 the proposed respondents are in joint possession and hence, the proposed parties are not necessary parties in the suit, since the properties were already partitioned.

6. In the result, the Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

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1. The Sub Court, Vedasanthur

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

+1 CC to M/s.N.TAMIL MANI, Advocate (SR-25874[F] dated 17/12/2020)

+1 CC to M/s.H.LAKSHMI SANKAR, Advocate (SR-25903[F] dated 17/12/2020)

Order made in
C.R.P. (MD) No. 127 of 2016

17.12.2020

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SSS (CO)

KK(28.12.2020) 3P 6C