

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP(PD).Nos. 2778 and 2779 of 2015

**and
M.P.No.1 of 2015**

CRP(PD).No.2778 of 2015

Periyammal

... Petitioner

Vs.

Muthu (deceased)

1. Kesambu
2. Palaniammal
3. Gandhi
- Vemban (died)
4. Poongodhai
5. Muniammal
6. Selvarasu
7. Ambica
8. Ramachandran
9. Amudhan
10. Balakrishnan
11. Rajagopal

... Respondents

PRYAER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure Code, praying to set aside the order and decretal order dated 10.02.2015 in I.A.No.4212 of 2014 in O.S.No.753 of 2008 on the file of the I Additional District Munsif, Kallakurichi.

For Petitioner : P.Tamilavel

For Respondents : Mr.N.Manokaran

CRP(PD).No.2779 of 2015

Periyammal

... Petitioner

Vs.

Muthu (deceased)

1. Kesambu
2. Palaniammal
3. Gandhi
- Vemban (died)
4. Poongodhai
5. Muniammal
6. Selvarasu
7. Ambica
8. Ramachandran
9. Amudhan
10. Balakrishnan
11. Rajagopal

... Respondents

PRYAER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure Code, praying to set aside the order and decretal order dated 10.02.2015 in I.A.No.4213 of 2014 in O.S.No.753 of 2008 on the file of the I Additional District Munsif, Kallakurichi.

For Petitioner : Mr.P.Tamilavel

For Respondents : Mr.N.Manokaran

COMMON ORDER

These Civil Revision Petitions are filed against the fair and decretal order passed in I.A.Nos.4212 and 4213 of 2014 in O.S.No.753 of 2008 dated 10.02.2015 on the file of the learned I Additional District Munsif, Kallakurichi, thereby, dismissing the petition to re-open and implead the 11th respondent herein as one of the defendants.

2. The petitioner is the plaintiff. She filed a suit for partition. The suit is of the year 2005. The written statement filed on 12.06.2009. On perusal of the written statement, by the registered partition deed dated 27.02.1968, the entire suit properties were already partitioned between the family members. After examination of all the witnesses and when the matter was posted for defendants argument, the petitioner herein filed a petition to implead the 11th respondent herein as one of the defendants in the suit.

3. On a perusal of the affidavit filed in support of the implead petition, the petitioner stated that while she was cross examined by the defendants, she came to understand that one of the suit items property was sold out to the proposed defendant and as such, the proposed defendant is a

necessary party to the suit proceedings. It is seen that the petitioner was examined as P.W.1. She was cross examined on 09.11.2010. Thereafter, the plaintiff side also argument completed and when the matter was posted for arguments of defendants, the petitioner come forward with the petition to implead the 11th respondent as one of the defendants in the suit. As stated supra, even in the written statement itself, the defendant categorically avered that by the registered partition deed dated 27.02.1968 all the suit properties were partitioned between them. Therefore, the petition is filed very belatedly and only to drag on the proceedings. As such, this Court finds no irregularity or infirmity in the orders passed by the Court below.

4. Accordingly, these Civil Revision Petitions are dismissed. The trial Court is directed to dispose the suit within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

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15.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The I Additional District Munsif, Kallakurichi.



CRP(PD).Nos. 2778 and 2779 of 2015

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