

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No. 3533 of 2015

and

MP.No.1 of 2015

S.Muthulakshmi

... Petitioner

Vs.

1.T.Ramu

2. State of Tamil Nadu
rep by its District Collector,
Thiruvallur District.

3. The Revenue Divisional Officer,
Ponneri Taluk, Ponneri
Thiruvallur District.

4. The Tahsildar,
Ponneri Taluk,
Thiruvallur District.

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike out the plaint in O.S.No.94 of 2014 on the file of the District Munsif Court, Ponneri.

For Petitioner : Mr.E.C.Ramesh

For Respondents : No Appearance (for R1)
: Mr.S.Jaganathan (for R2 to R4)
Government Advocate (CS)

ORDER

This Civil Revision Petition has been filed to strike out the plaint in O.S.No.94 of 2014 on the file of the District Munsif Court, Ponneri.

2. The first respondent filed the said suit for declaration to declare that he is the sole legal heir of his deceased/Guruvammal wife of Late.Thiyagarajan and also to declare the legal heir certificate issued by the 4th respondent herein dated 02.04.2002 as null and void with consequential permanent injunction, in respect of the suit schedule property. The suit was filed alleging that the petitioner and others were not born to his parents and also the legal heir certificate issued by the 4th respondent, including the petitioner as one of the legal heirs of deceased /Guruvammal, is fabricated.

3. Though notice was served on the first respondent and the name is also printed in the cause list, no one appeared on behalf of the first respondent by person. Heard the learned counsel for the petitioner as well as the learned Government Advocate (CS) appearing for the second to fourth respondents.

4. On a perusal of the records, it reveals that the petitioner already filed the suit for partition, in respect of the suit property in O.S.No.116 of 2007 as against the first respondent herein on the file of the Fast Track Court, No.4, Ponneri. A preliminary decree was passed by the decree dated 05.09.2008. On the strength of the preliminary decree, the petitioner herein filed a petition for final decree in I.A.No.03 of 2009 in O.S.No.116 of 2007. The final decree was passed and thereafter, the petitioner also filed a Execution Petition in E.P.No.3 of 2013.

5. While pending the Execution Petition, the first respondent herein challenged the final decree by way of Appeal Suit in A.S.No.97 of 2014 before this Court and also filed a petition for interim stay. This Court by an order dated 03.06.2015, dismissed the interim stay petition and the main appeal is pending. Thereafter, the Execution Court also allowed the Execution Petition and ordered delivery of possession. The said order was also challenged by the first respondent herein before this Court in CRP.No.1348 of 2015 and the same was dismissed by an order dated 22.07.2015. While being so, after having been failed before this Court, the first respondent filed the present suit for declaration in O.S.No.94 of 2014.

6. Now, the petitioner also took the possession of her share and delivery was recorded and the Execution Petition was also terminated by the Execution Court. Therefore, the present suit is nothing, but clear abuse of process of Court and it cannot be sustained as against the petitioner herein. That apart, on a perusal of the legal heir certificate dated 02.04.2002, it was issued only on the application filed by the first respondent herein by the 4th respondent. After verification and conducting enquiry, the 4th respondent issued the legal heir certificate. It was marked only by the first respondent herein. After a period of 16 years from the date of issuance of the legal heir certificate, the same is under challenge in the present suit. Therefore, the suit itself is barred by limitation and it cannot be sustained as against the petitioner herein.

7. In view of the above discussion, this Civil Revision Petition is allowed and the plaint in O.S.No.94 of 2014 is hereby struck off. Consequently, the connected Miscellaneous Petition is closed. No costs.

02.02.2021

Speaking/Non-speaking order

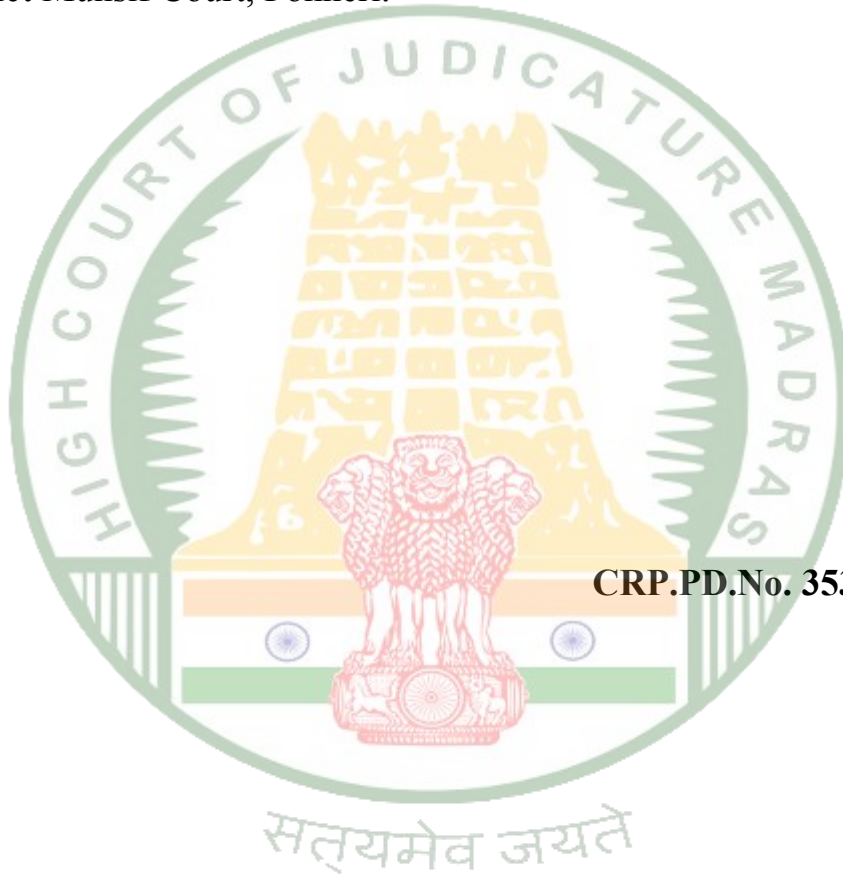
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

Kv

To

The District Munsif Court, Ponneri.



CRP.PD.No. 3533 of 2015

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