

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.1597 of 2021
and C.M.P.No.12439 of 2021**

C.S.SadasivamPetitioner

Vs.

1.T.Venkata Subramanian

2.T. Arunkumar

M.K.Ramasamy Gounder (died)

3.S.Saraswathi

4.S.Rathinam

5.T.Meenakshi

....Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair Order and Decreetal Order dated 05.03.2021 in I.A.No.05 of 2020 in O.S.No.18 of 2009 passed by the learned District Munsif at Perundurai and allow this revision petition.

For Petitioner : Mr. Rajesh Vivekananthan

ORDER

This Civil Revision Petition is filed, to set aside the fair order and decreetal order dated 05.03.2021 in I.A.No.5 of 2020 in O.S.No.18 of 2009

passed by the District Munsif at Perundurai.

2.The learned counsel for the petitioner submitted that the petitioner/plaintiff is in possession and enjoyment of the suit property, ever since the property was allotted to his mother through oral partition in the year 1947. The Defendant tried to interfere with the possession of the petitioner and therefore, the suit was filed, declaring the title over the suit property and for permanent injunction restraining the defendants from peaceful possession and enjoyment of the suit property.

3.Further, the learned counsel for the petitioner filed documents to show his continuous possession and enjoyment of the suit property. However, the respondents 1 and 2 have filed a petition under Order 1 Rule 10 for impleading them as defendants in the suit, in I.A.No.5 of 2020, claiming right over the suit property on the basis of the Will, alleged to have executed by the Ramasamy Gounder on 28.11.2014. The said Will is fabricated for the purpose of this case. He further submitted that the respondents 1 and 2 cannot claim any right on the basis of this Will. However, the learned trial Judge without considering the objection raised by the petitioner wrongly allowed the petition for impleading the respondents 1

and 2 as defendants in the suit. Against the said order of dismissal, this Civil Revision Petition is filed. It is further submitted that the case is pending at the stage of arguments and the fact that this impleading petition is filed when the matter is pending for argument, shows that this petition is filed only to drag on the proceedings.

4. Reading of the plaint shows that the petitioner claims that his father-Subbaraya Gounder encroached the suit property on 14.09.1947 and constructed tiled house and he has been in an uninterrupted peaceful possession and enjoyment of the properties and asserted title against the defendants. Patta was also given in the name of the plaintiff's father. After the death of the plaintiff's father, the plaintiff is enjoying the suit property. The proposed defendants claim that the first defendant - Ramasamy Gounder was the owner of the suit property. He allowed his sister, that is the mother of the plaintiff to occupy the suit property. Now, the plaintiff claims adverse possession and it is their further case that Ramasamy Gounder executed a will on 28.11.2014 bequeathing the suit property in their favour. After the death of Ramasamy Gounder on 16.02.2015, the respondents 1 and 2 had become owners of the suit property and they are

proper and necessary parties to the suit. Despite knowing the execution of Will, the petitioners in I.A.No.5 of 2020 have not been impleaded as defendants in the suit.

5.It is seen from the submissions that there are rival claims to the ownership of the suit property. The petitioners claims right to the suit property through long possession and enjoyment. On the other hand respondents 1 and 2 claim that the suit property belongs to the first defendant - Ramasamy Gounder and he executed the Will on 28.11.2014 in favour of the respondents 1 and 2. On the strength of the said Will, the respondents 1 and 2 become the owners of the suit property. In view of the rival submissions, this court is of the considered view that the respondents 1 and 2 are the proper and necessary parties for the complete and effective adjudication of the dispute. Their impleadments will avoid multiplicity of the proceedings. Therefore this court finds that there is no reason to interfere with the order dated 05.03.2021 in I.A.No.05 of 2020 in O.S.No.18 of 2009 passed by the learned District Munsif at Perundurai, for impleading the respondents 1 and 2 as defendants in the suit.

6.Further, the suit was filed in the year 2009. These cases are

coming under the category of old cases, which are pending for more than five years. Courts are expected to give priority in disposal of old cases. Therefore, the learned District Munsif at Perundurai, is directed to take immediate steps to implead the respondents 1 and 2 as defendants in the suit and proceed with the trial and dispose of the suit in O.S.No.18 of 2009, as expeditiously as possible, preferably within a period of 3 months from the date of receipt of a copy of this order.

7. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

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24.08.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1. The District Munsif at Perundurai

2. The Section Officer

VR Section

High Court of Madras.

G.CHANDRASEKHARAN.J,

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