

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(PD).No.3369 of 2016

- 1.Pachiyammal
- 2.Velusamy
- 3.Kathavarayan
- 4.Ganesan

... Petitioners

Versus

- 1.Palaniappan
- 2.Ammasai
- 3.Katha Gounder
- 4.Palaniammal
- 5.Pachiammal
- 6.Nallathambi @ Chenniappan
- 7.Thailiammal @ Aya
- 8.Palaniammal
- 9.Kunjammal @ Mathammal
- 10.Periyasamy
- 11.Pottu @ Arunachi

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order, dated 05.08.2016 made in I.A.No.529 of 2016 in I.A.No.1709 of 2014 in O.S.No.120 of 2000, on the file of the Principal District Munsif Court, Bhavani.

For Petitioners : Ms.Sathiya

For Respondents : No Appearance

ORDER

Heard Ms.Sathya, learned counsel for the petitioners. None appeared for the respondents, though the name of the respondents are printed in the cause list, either during the earlier hearing and even on today. The respondents did

not appear either in person and as such the Court proceeded to hear the arguments on merits.

2.The Civil Revision Petition arises as against the order in I.A.No.529 of 2016 in I.A.No.109 of 2014 in O.S.No.120 of 2000 on the file of the Principal District Munsif, Bhavani, in and by which, the learned District Munsif had allowed an application filed by the first respondent herein to implead himself as party respondent in the final decree proceedings on the grounds that the original 6th defendant in the suit viz., Panlaniappan was his father and he passed away, therefore, he filed this application under Order I, Rule 10(2) of C.P.C., to bring on record himself as party respondent in the final decree proceedings.

3.The application was resisted by the petitioner/plaintiff stating that absolutely no particulars, whatsoever have been given by the first respondent herein and they also disputed that the first respondent is the sole legal heir of the deceased / 6th defendant/respondent.

4.The primary contention raised by the learned counsel for the petitioner is that the first respondent did not either produce the death certificate or legal heir certificate and his application did not contain proper particulars for allowing himself as party respondent in the suit and as such, she prayed for the

order of the learned District Munsif be set aside and the matter be remitted back to the learned District Munsif Court, to conduct enquiry afresh.

5.Be that as it may, on perusal of affidavit filed in support of I.A.No.529 of 2016, reveals that the first respondent had made several averments on the merits of the case. But, however, neither the date of death of the said Palaniappan is mentioned nor it is categorically stated that he is the sole legal heir. In such circumstances, the plaintiff has also filed a counter, in which, he is simply denied the first respondent is the legal heir of the 6th defendant.

6.It is to be noted that this suit is filed for partition and as per the genealogy, the parties are related to each other. The plaintiff could have also specifically brought to the notice to the Trial Court if at all any of the particulars which are mentioned by the first respondent is erroneous.

7.Under these circumstances, I do not see any error in the order passed by the learned District Munsif by allowing the application to bring the first respondent on record. But, however, it is made clear that this does not in any manner mean that the other contentions raised by the first respondent in the affidavit filed in support of the application to bring himself on record is being accepted and endorsed by this Court.

D.BHARATHA CHAKRAVARTHY.J.,

klt

8.With this observation, the Civil Revision Petition is dismissed.

There shall be no order as to costs. Consequently, the connected C.M.P.No.17167 of 2016 is closed.

28.10.2021

Index : yes/no
Internet :yes/no
Speaking/Non-Speaking order

klt

To
The Principal District Munsif Court, Bhavani.



C.R.P (PD).No.3369 of 2016

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