IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

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

CRP.NPD.No.2422 of 2018
and
CMP.No.14913 of 2018

1.Jayalakshmi
2.Saravana Kumar
3.Minor Sampath Kumar
Minor rep. by his next friend and mother
1st petitioner Jayalakshmi
Minor Jansirani (died) ..Petitioners

Vs.

1.Madhu @ Manonmani
2.Vetriselvi
3.Selvan
4.Ramesh
5.Santhalakshmi
6.Jayakumar
7.The Chief Educational Officer,
Office at Ganesa Colony,
Bye-pass Road,
Dharmapuri – 636 701
8.The Assistant Educational Officer,
Office at Railway Station Road,
Dharmapuri Taluk & District
9.The Special Officer,
Dharmapuri District Cooperative Sugar Mills Ltd.,
K.K.347, Palacode,
Dharmapuri District
10.The Branch Manager,
Indian Bank,
Dharmapuri

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11.The Branch Manager,
State Bank of India,
Dharmapuri
12.The Divisional Manager,
Life Insurance Corporation of India,
Coimbatore
13.The Branch Manager,
Life Insurance Corporation of India,
Dharmapuri Taluk & District ..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order of the Principal District Court at Dharmapuri dated 14.06.2018 in IA.No.42 of 2017 in CRP.No.1 of 2003 in AS.No.42 of 1997.

For Petitioners : Mr.P.Valliappan

For Respondents
For R12 & 13: Mr.K.Chandu Suranjan

R1 to 11 : No appearance

ORDER

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This Civil Revision Petition is filed against the fair and decretal order of the Principal District Court at Dharmapuri dated 14.06.2018 in IA.No.42 of 2017 in CRP.No.1 of 2003 in AS.No.42 of 1997.

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2. Though notice was served, no one appeared on behalf of the respondents 1,4,6 to 11 before this Court in person or through pleader.

3. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed suit for partition. The same was dismissed and therefore, the petitioners also filed appeal suit in AS.No.42 of 1997 and it was partly allowed by the judgment and decree dated 24.02.1999. Thereafter, they filed review petition and the review was allowed. Thereafter, the fourth minor Plaintiff died and as such the petitioners filed petition seeking amendment in the decree passed in AS.No.42 of 1997 and the CRP.No.1 of 2003. However, the court below dismissed the same for the reason that the court below has no power under Sections 151 and 152 of C.P.C. to amend the decree.

4. Admittedly, the first petitioner is the only legal heir of the deceased fourth plaintiff who was minor and died before her marriage. So, except the first petitioner herein, no other legal heirs to the deceased fourth plaintiff. As per Section 15 (1) (c) of the Hindu Succession Act, the first petitioner is being mother of the fourth deceased minor plaintiff, is the only legal heir to succeed to the chair

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of the deceased fourth plaintiff. The court has inherent powers under Section 151 of CPC to do complete justice between the parties. The amendment sought for by the petitioners herein would not cause any prejudice to the respondents and in respect of sharing the shares which was originally allotted to the fourth defendant, can be shared among the petitioners herein.

5. In view of the above, this civil revision petition is allowed and the order of the Principal District Court at Dharmapuri dated 14.06.2018 in IA.No.42 of 2017 in CRP.No.1 of 2003 in AS.No.42 of 1997 is set aside. Consequently, connected miscellaneous petition is closed. No order as to costs.

29.07.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To
The Principal District Judge
at Dharmapuri

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G.K.ILANTHIRAIYAN,J.

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