



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.550 of 2021

1. K.T.Nicholas
2. K.T.Thomas
3. K.T.Paul
4. K.T.George
5. K.T.Sebastian
6. K.T.Joseph
7. K.T.John
8. K.T.Abraham
9. K.T.Lazer

... Petitioners 1 to 9/
Petitioners/Defendants 1 to 9

-Vs-

G.Vallinayagam Pillai

... 1st Respondent/1st Respondent/
Plaintiff

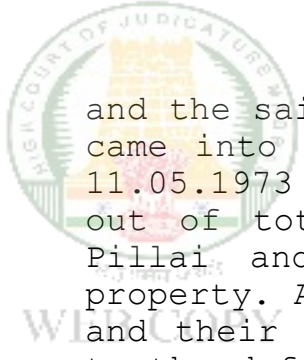
Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Additional District Judge, Nagercoil, Kanyakumari District to dispose of the petition in I.A.No.30 of 2018 in O.S.No.162 of 2017, on the file of the Additional District Court, Nagercoil, on merits within the time stipulated by this Court.

For Petitioner : M/s.V.Raghavachari

O R D E R

This Civil Revision Petition has been filed seeking a direction to the learned Judge, Additional District Court, Nagercoil, to dispose of the case in I.A.No.30 of 2018 in O.S.No.162 of 2017, on the file of the Additional District Court, Nagercoil, within the time stipulated by this Court.

2. The learned counsel for the revision petitioner would submit that the respondent/plaintiff has filed a suit against the revision petitioners and against one V.Gopala Pillai in O.S.No.162 of 2017 on the file of the Additional District Court, Nagercoil, for relief of partition; for exclusive possession of his 5/30 shares in the suit property, for the relief of declaration that the sale deeds obtained by the defendants 5 and 3 the father of the defendants 1 to 9 and defendant 2 and 4 respectively dated 19.01.1994 (document No:529/1994 to 533/1994); for an order of permanent injunction restraining the defendants 1 to 9 from making any alienation or encumbrance and alter the physical feature of suit property. The learned counsel for the revision petitioners would submit that originally the suit property belonged to plaintiff's grandfather Vallinayagam Pillai and he executed a registered WILL on 09.02.1963



and the said Vallinayagam Pillai died on 10.04.1973. Hence, the WILL came into force. Earlier, as per the arrangement "yathasthu" dated 11.05.1973 among the sons, an extent of 3 cents on the northern side out of total extent 71 cents was exclusively given to Nalasivam Pillai and the remaining 68 cents alone is the present suit property. After the demise of the Vallinayagam Pillai, his five sons and their children including plaintiff executed various sale deeds to the defendants 1 to 9 and their father late k.T.Thomas. He would further submit that the five sons of Vallinayagam Pillai have inherited the suit property as a coparcener property and they have only negligible share in the property along with their respective heirs. The plaintiff is entitled to 1/6 share.

3. The grievance of the petitioners is that, the revision petitioners filed I.A.No.30 of 2018 under Order VII, Rule 11 and Order VI, Rule 16 to reject the plaint as well as to struck off the pleadings and the said application is pending from the year 2018. Till date the same has not been disposed of for one reason or other. The five petitioners in I.A.No.30 of 2018 are aged more than 70 years and three petitioners are more than 60 years old and also all are senior citizen. Hence, the petitioners are constrained to move the present revision petition before this Court for getting speedy disposal of the application in I.A.No.30 of 2018 in O.S.No.162 of 2017, filed for rejection of plaint.

4. Heard the learned counsel for the revision petitioners and perused the materials placed before this Court. Since this Civil Revision Petition is filed only for an early disposal of the application and as no adverse order is going to be passed, no notice is necessary to the respondent herein.

5. Considering the age of the petitioners and also the facts and circumstances of the case, this Court feels that ends of justice would be met by directing the Court below to dispose of the interlocutory application within a time frame. Without adverting to the merits of the case, a direction is issued to the learned Judge, Additional District Court, Nagercoil, to dispose of the application in I.A.No.30 of 2018 in O.S.No.162 of 2017, on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

6. With the above direction, this Civil Revision Petition is disposed of. No costs.

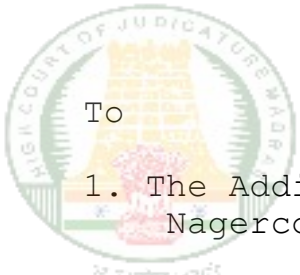
Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1. The Additional District Court,
Nagercoil.

2.The Principal District Judge,
Kanyakumari District at Nagercoil,

+1 CC to M/s.V.RAGHAVACHARI, Advocate (SR-13453[F] dated 24/03/2021
)

C.R.P. (MD) No.550 of 2021
24.03.2021

SJ(CO)
KB(30.03.2021) 3P 4C