**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Date of Reservation	05.03.2021
Date of Order	14.06.2021

CORAM:**THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**CRP (PD) (MD) Nos.1609 and 1620 of 2017andCMP (MD) No.9101 of 2017

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(1) CRP PD (MD) No.1609 of 2017:-

R.Chokkappan : Petitioner/Respondent/Plaintiff

Vs.

1.R.Rajammal

2.R.Indira Devi

3.R.Thiraviyaraj

4.R.Chokkammal

5.R.Ramachandran

6.R.Murugesan

: Respondents/Petitioner/Defendant

7.C.Parimala Gandhi

: 7th Respondent/Proposed party

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal, dated 25.07.2017 made in I.A No.277 of 2017 in O.S No.89 of 2012 on the file of the Sub Court, Aruppukottai.

(2) CRP PD (MD) No.1620 of 2017:-

R.Chokkappan : Petitioner/Respondent/Plaintiff

Vs.

1.R.Rajammal

2.R.Indira Devi

3.R.Thiraviyaraj

4.R.Chokkammal

5.R.Ramachandran

6.R.Murugesan

: Respondents/Petitioner/Defendant

7.C.Parimala Gandhi

: 7th Respondent/Proposed party

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal, dated 25.07.2017 made in I.A No.276 of 2017 in O.S No.89 of 2012 on the file of the Sub Court, Aruppukottai.

For Petitioner

: Mr.J.Gunaseelan Muthiah

For R1 to R6

: Mr.P.T.Arivu Kumar

For 7th Respondent

: No appearance

**COMMON ORDER**

These Civil Revision Petitions have been filed against the fair and decreetal, dated 25.07.2017 made in I.A Nos.276 and 277 of 2017 in O.S No.89 of 2012 on the file of the Sub Court, Aruppukottai.

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2.The revision petitioner herein as plaintiff filed the suit O.S No.89 of 2012 on the file of the Sub Court, Aruppukottai, against the respondents 1 to 6 herein for partition and separate possession. Pending suit, the respondents 1 to 6/defendants filed I.A No.276 of 2017 in O.S No.89 of 2012 to reopen the case for examination of the additional witnesses and I.A.No.277 of 2017 to implead the 7th respondent herein as 7th defendant in the suit. Both the petitions were allowed by the trial court, by order, dated 25.07.2017 on payment of costs. Aggrieved by the impugned orders of the trial court, the revision petition is before this court with these civil revision petitions.

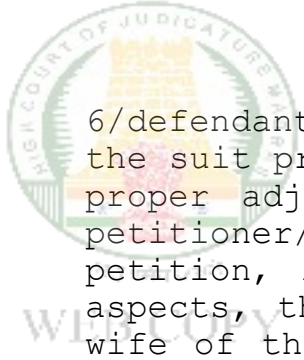
3.Heard both sides and perused the materials available on record.

4.The main contention raised on the side of the revision petitioner/plaintiff is that on reason was stated for filing these petitions at this stage and the suit property is a self-acquired property of the petitioner/plaintiff and hence, he has every right to dispose it and hence, his wife is not a necessary party in this case and the trial court has passed the order mechanically and prays that the civil revision petitions are to be allowed.

5.On the other hand, the learned counsel appearing for the respondents 1 to 6/defendants argued that the suit property was purchased from the income of the ancestral property and the suit property is an ancestral property and hence, the respondents 1 to 6/defendants are entitled to share in the suit property, but the revision petitioner/plaintiff settled the suit property in favour of his wife and hence, his wife is a necessary party to the suit for proper adjudication and hence, the trial court correctly impleaded the wife of the revision petitioner as necessary party and prays that the civil revisions petitions are to be dismissed.

6.In this case, the revision petitioner/plaintiff stated that the suit property is his self-acquired property and he has every right to dispose off it. But the on the side of the respondents 1 to 6/defendants, it is stated that the suit property was purchased from their income and it is an ancestral property and hence, they are entitled to share in the suit property.

7.Whether the suit property is a self-acquired property or ancestral property will be decided by way of examining the witnesses and documents at the time of trial. But the respondents 1to



6/defendants stated that the revision petitioner/plaintiff settled the suit property in favour of his wife. Hence, it is held that for proper adjudication, it is necessary to implead the wife of the petitioner/plaintiff in the suit. Hence, for filing impleading petition, it is necessary to open the case. Considering all these aspects, the trial court correctly came to the conclusion that the wife of the petitioner/plaintiff is necessary to this suit and for filing impleading petition, it is necessary to open the case and hence, it is not necessary to interfere into the findings of the trial court.

8.In the result, these civil revisions are dismissed. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Court, Arupukottai.

2.The Record Keeper, V.R Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.J.GUNASEELAMUTHIAH, Advocate (SR-19227[F] dated 14/06/2021)

CRP (PD) (MD) Nos.1609 and 1620 of 2017
and CMP (MD) No.9101 of 2017
14.06.2021

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