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CRP.PD.No.349 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.R.P.PD.No.349 of 2022

and

C.M.P.No.1839 of 2022

1.Narendran

2.Sindhuja

... Petitioners

vs.

1.Chakrapani

2.The Tahsildar (North),
Coimbatore North Taluk,
Periyanaickenpalayam,
Coimbatore.

3.The District Collector,
Coimbatore Office,
Huzur Road,
Coimbatore-641 018.

4.Minor Tharun Krishna

5.Minor Ajai Krishna

6.Minor Arun Krishna
Minor represented by their
Next Friend and Father
Mr.Chakrapani)

... Respondents



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Final Order dated 29.10.2021 passed by the learned I Additional District Munsif, Coimbatore in I.A.No.1 of 2019 in O.S.No.618 of 2017 and prays to set aside the same.

For Petitioner : Mr.L.Mouli
For Respondents 2 and 3 : Mr.D.Gopal
Government Advocate (C.S.)

ORDER

The plaintiffs are the revision petitioners before this Court, challenging the order impleading the 1st respondent herein as the 5th defendant in the suit.

2. The facts in brief are as follows:

The revision petitioners/plaintiffs filed O.S.No.618 of 2017 on the file of I Additional District Munsif, Coimbatore for a declaration they along with the defendants 3 to 5 are the legal representatives of the deceased Padmalatha and for a direction to the 1st defendant to issue a legal heirship certificate to the plaintiff and the defendants 3 to 5.



3. It is the case of the plaintiffs that the deceased Padmalatha was the wife of the 1st plaintiff and the mother of the 2nd plaintiff. Besides, the 2nd plaintiff, Padmalatha had another daughter K.S.Ranjani, who is no more and the defendants 3 to 5 are her children. The said Ranjani was the daughter of Padmalatha through her 1st Husband Sankarankutty. The marriage between Sankarankutty and Padmalatha was dissolved by order of the learned II Additional Subordinate Judge, Coimbatore on 07.02.1992. Thereafter, the said Padmalatha had married the 1st plaintiff through whom the 2nd plaintiff was born. Her daughter through Sankaran Kutty died on 28.05.2011 even before the death of the Padmalatha who passed away on 25.09.2012. The plaintiffs had obtained a legal heirship certificate showing only themselves as legal heirs of the deceased Padmalatha. The 1st respondent had objected to the same and thereafter, the legal heirship certificate granted to the plaintiff was cancelled. Therefore, the present suit was filed for the declaration stated supra.

4. The defendants 3 to 5 had filed their counter in which, they have raised the issue of non-joinder of necessary parties as the 1st respondent who was the husband of the deceased Ranjani had not been



impleaded as party to the proceedings. Despite the above defence, the plaintiff had not taken any steps to implead the 1st respondent herein.

Therefore, he had taken out I.A.No.1 of 2019 to have himself impleaded as the 5th defendant. The plaintiff had resisted the above issue stating that he is neither a necessary nor a proper party to the proceedings.

5. The learned II Additional District Munsif, Coimbatore had allowed the application in I.A.No.1 of 2019 on 29.10.2021. Aggrieved by the same, the plaintiffs are before this Court.

6. Heard the learned counsel for the petitioners and the learned Government Advocate (C.S.) for the respondents 2 and 3.

7. Admittedly, one Ranjani, the daughter of Padmalatha born through her 1st husband had passed away even prior to the death of her mother leaving behind her surviving her husband / the 1st respondent herein and her children who are Respondents 4 to 6 herein. On the death of the said Padmalatha on 25.09.2012, Chakrapani and her children are also the legal heirs of the deceased Padmalatha. Therefore, the non-impleadment of



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the 1st respondent despite the defence of the defendants 3 to 5 is erroneous.

That apart, the earlier legal heirship certificate has been cancelled on the complaint of the 1st respondent herein stating that he and his children are also legal representatives of late Padmalatha and not only the plaintiffs. Therefore, I do not find any infirmity in the order dated 29.10.2021 passed by the learned I Additional District Munsif, Coimbatore in I.A.No.1 of 2019 in O.S.No.618 of 2017.

8. In view of the above, this Civil Revision Petition is dismissed and the order dated 29.10.2021 passed by the learned I Additional District Munsif, Coimbatore in I.A.No.1 of 2019 in O.S.No.618 of 2017 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

15.02.2022

ssn

Index : Yes/No

Speaking / Non-speaking order



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P.T.ASHA, J.,
ssn

To

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Coimbatore.
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