



CRP.(PD)No.1386 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

CRP.(PD)No.1386 of 2022 and
C.M.P.No.7248 of 2022

1.Periyammal
2.Palaniammal
3.Vedakkal
4.Chinnathayee

... Petitioners

Vs.

1.Ammasi

Kandasamy (died)

Chinnammal (died)

2.K.Chinnathambi
3.C.Subramaniam
4.K.Chinna Gounder
5.C.Kandasamy

6.Erst While Minor C.Lakshmanan
Now attained Majority

7.Erst While Minor C.Sundararaju
Now attained majority



CRP.(PD)No.1386 of 2022

8.K.Madaiyan
9.M.Kandasamy
10.M.Selvaraj

K.Kandasamy (died)

11.K.Gurusamy
12.Thangamani

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgement and decree dated 15.02.2022 made in I.A.No. 03 of 2022 in I.A.No.228 of 2014 in O.S.No.104 of 1994 on the file of the District Munsif Court, Sankari.

For Petitioners : Mr.R.Marudhachalamurthy

ORDER

This is a crazy case, but then this Court is left with little option than to order notice.

2.The suit is laid for partition, wherein the revision petitioners are stated to be arrayed as party defendants. The preliminary decree came to be passed pursuant to which an application for final decree is made. It appears in the final decree application, that the revision petitioners were set exparte and



their efforts to have them back in the parties array have gone in vain before the trial Court, which resulted in the revision petitioners filing C.R.P No.2790 of 2019 before this Court and the same is pending. In that Civil Revision Petition, this Court has passed an order of injunction limited by time. The learned counsel for the revision petitioners would submit that every time the injunction expires, the learned trial judge would expedite the process of disposal.

3.The suit is pending since 1994, and the final decree application itself is pending from 2014, this Court only needs to appreciate the anxiety of the learned judicial officer to expedite the process.

4.Be that as it may, the plaintiff / petitioner in the final decree application has taken out an application in I.A.No.3 of 2022 for correcting the survey number of item 2(3) of the suit property in the final decree application in I.A.No.228/2014. Whereas the survey number ought to be 177/10, in the schedule of the property in the final decree application it is stated as 177/1. This application was allowed by the trial Judge. This is now in challenge.



5.Learned Counsel for the revision petitioners would submit that the order in I.A.No.3/2022 would state that the revision petitioners remained absent, whereas the revision petitioners did not even have a notice of it. The learned counsel for the revision petitioners took a strong exception to this statement, and his grievance is that the revision petitioners were not heard in the matter.

6.It may have to be underscored that the revision petitioners have been set exparte in the final decree application even prior to the institution of C.R.P.No.2790 of 2019 and obviously they were not heard. How the trial Court has construed this is not very material since on that date I.A.No.3 of 2022 was disposed of, the revision petitioners did not even have any right of audience. Whether they need to have a right of audience needs to be decided in C.R.P.No.2790 of 2019.

7.The revision petitioners' only grievance is that they were not heard, in which case they could have clarified something as to the need for amendment. Now, with or without going into the question whether the revision petitioners are entitled to a right of hearing, the fact remains that the



CRP.(PD)No.1386 of 2022

revision petitioners do not say that the amendment of survey number of item 2(3) of the property was inconsistent with the schedule of property stated in the preliminary decree. Therefore the present exercise is a cosmetic exercise and this Court is least inclined to interfere with this.

8.The revision petitioners however, will be entitled to make their statement including the amendment that is now allowed, if they succeed in the C.R.P.No.2790 of 2019.

9.The Civil Revision Petition is therefore dismissed at the admission stage itself. Consequently, the connected C.M.P.No.7248 of 2022 is also dismissed.

No costs.

29.04.2022

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order

kas/dk



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CRP.(PD)No.1386 of 2022

N.SESHASAYEE, J.,

kas/dk

To

The District Munsif Court
Sankari.

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