



C.R.P.(PD).No.2438 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

C O R A M

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.2438 of 2021
and CMP.No.18511 of 2021

Chitra Ramalingam

..... Petitioner

- 1.Sakthi Kumar
- 2.Ali
- 3.Baskaran
- 4.G.Sridharane
- 5.Nirmala Premkumar
- 6.Amritha Vijayakumar
- 7.G.Kannan
- 8.R.Kumaran
- 9.R.Manimozhi
- 10.S.Mullai
- 11.R.Rani
- 12.N.Ganapathy
- 13.S.Muthuraman
- 14.A.Raja
- 15.N.Chandrakumar
- 16.K.Arunasalam
- 17.G.Munisamy
- 18.D.Rani



C.R.P.(PD).No.2438 of 2021

- 19.J.Ilangovan
- 20.K.Tahmizmani
- 21.R.Baskaran
- 22.K.Tharanivel
- 23.M.Rajalatchumi
- 24.P.Varadhan
- 25.V.Devaki
- 26.N.Vittoba
- 27.G.Kayalvizhi
- 28.M.Anandaraj
- 29.Geetha Anandaraj
- 30.M.Aneboucarassy
- 31.S.Geetha
- 32.A.Srimanulu
- 33.P.S.Ranganathan
- 34.A.Lavanya @ Mahalakshmi
- 35.S.Shanthi
- 36.S.Senthilkumaran
- 37.The Union of India
Rep by its
Chief Secretary, Union Territory of Puducherry,
Government of Puducherry,
Office of the Chief Secretariat,
Goubert Avenue, Puducherry.
- 38.The Collector,
Government of Puducherry.
- 39.The District Registrar, Registration Department,
Government of Puducherry, Puducherry.
40. The Tahsildar, Puducherry Taluk Office,
Revenue Department, Government of Puducherry,
Puducherry.
41. The Director, Directorate of Survey and Land Records Office
Revenue Department, Government of Puducherry, Puducherry.



C.R.P.(PD).No.2438 of 2021

42.The Tahsildar (Settlement), Settlement Office,
Directorate of Survey and Land Records Office,
Revenue Department, Government of Puducherry, Puducherry.

43.The Superintending Engineer,
Public Works Department ,
Government of Puducherry, Puducherry.

44. The Commissioner, Aryankuppam Commune Panchayat,
Local Administration Department,
Government of Puducherry, Puducherry.

45.Dushyanth

46.Barath

47.Archana

... Respondents/Defendants

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order in I.A. 583 of 2018 in O.S 35 of 2010 dated 15.09.2021 on the file of the III Additional District Judge at Puducherry as illegal incompetent and without jurisdiction.

For Petitioner : Mr.V.Raghavachari

For R1 to R3 : Mr.K.V.Sundararajan

For R4 to R47 : Dispensed with vide verified petition
SR No. 32375 dated 28/10/2021



ORDER

WEB COPY

Challenging the order allowing the petition filed by the respondents 1 to 3 herein, seeking to implead them in the proceedings in O.S.No.35 of 2010, the aggrieved plaintiff is before the Court.

2. The parties are referred to in their array as before the trial Court and respondents 1 to 3 herein are collectively referred to as 3rd parties.

3. The plaintiff had filed a suit in O.S.No.35 of 2010 on the file of the III Additional District Judge at Puducherry seeking several reliefs and one of the reliefs is for a partition of the 1/4th share of the plaintiff in schedule 'A' to 'L' of the suit schedule properties. The plaintiff has filed the suit contending that the suit property belonged to her father D.Gopalasamy, who had amassed huge wealth in his practice as a French Advocate. The plaintiff and defendants 1 to 3 are siblings.



4. It is her case that her sisters, the 2nd and 3rd defendants were living outside Puducherry and therefore had given a Power of Attorney to their brother/the first defendant for managing the joint family property. The plaintiff however was residing at Puducherry and therefore was also jointly managing the properties. She would also state that after the demise of her father, her paternal side relatives had instituted several proceedings in respect of the properties. There appears to be some difference of opinion between the siblings as a result of which several issues are cropped up and ultimately the plaintiff had come forward with the above suit. The suit has been filed against 47 defendants which included defendants 1 to 3. It appears that pending the suit, the first defendant has also passed away and his legal representatives were brought on record as defendants 46 to 48.

5. Pending the above suit, the 3rd parties herein had filed an application in I.A.No.333 of 2013 in I.A.No.41 of 2013 in



C.R.P.(PD).No.2438 of 2021

O.S.No.35 of 2010 for deleting item Nos.A, B, C, E, I and J mentioned in the suit schedule properties and they would contend that they are the absolute owners of the property and the plaintiff had no right to claim any partition in respect of the same. The said application was dismissed and the 3rd parties challenged the said order by filing CRP.Nos.4100 and 4101 of 2014, on the file of this Court. By order dated 13.03.2018, this Court had dismissed the same. Thereafter, the 3rd parties had filed the impugned application seeking to implead themselves as a party defendant in the said suit. In the affidavit filed in support of the application, they would contend that the properties described as schedule A, B, C, E, I and J did not belong to the estate of Gopalsamy, but belonged to the 3rd parties absolutely. It is their case that the suit properties were the ancestral properties of one Venkatakrishna, who had three sons, viz., Manickasamy, Rathinam and Duraisamy; Manickasamy had one son viz., Shanmugam; Rathinam had two sons viz, Kandasamy and Vaithianathan; Duraisamy had four sons viz., Vadivelu, Gopalsamy,



(father of the plaintiff and defendants 1 to 3), Parasuraman and Padmanaban; Kandasamy had two sons viz., Palani and Gopal @ Gopi; Vadivelu had two sons viz., Sakthi Kumar, the first of the 3rd party and Baskaran, the 3rd of the 3rd parties. They would contend that on 07.08.1968, there was a partition amongst the branches of Manickasamy, Rathinam and Duraisamy represented by Shanmuga, Vaithianathan and Vadivelu respectively, each representing their respective branches. The 3rd parties had also narrated how the properties under schedule A, B, C, E, I and J (hereinafter referred to as the disputed properties) fell to their share. They would submit that now the plaintiff has filed a suit including the property that had been sold by their branch, grandfather Duraisamy to the share of Kandasamy and his sons viz., Palani and Gopal @ Gopi. They would therefore submit that they are necessary parties to be heard in the said suit.



6. The plaintiff had filed an extensive counter contending that being the *dominus litis* the choice of adding parties should be left to the plaintiff and that 3rd parties cannot be permitted to be impleaded in a suit for partition between family members and they would also contend that the present application is nothing but a re-litigation as the earlier applications filed to delete the disputed properties from the schedule of properties have been dismissed.

7. The learned III Additional District Judge, Puducherry, on considering the arguments and records as also the various judicial pronouncements held that the 3rd parties were necessary parties to the proceedings, since the suit also involved the properties which had been allotted to them and therefore, they must also have the chance to prove their right over the property. It is challenging the said order that the plaintiff is before this Court.



8. Mr.V.Raghavachari, learned counsel appearing on behalf of the plaintiff would fairly contend that the 3rd parties cannot be impleaded as parties in a suit for partition which only involved the family members. He would submit that the only remedy that is available to the 3rd parties is for filing a suit for declaring their right and the learned Judge had taken note of these facts before allowing the application. He therefore, seeks to have the revision allowed and the order set aside.

9. Per contra, Mr.K.V.Sundararajan, learned counsel appearing on behalf of the 3rd parties would take this Court through Genealogical tree of Venkatakrishnan which would clearly demonstrate that the plaintiff/defendants 1 to 3 and the 3rd parties are closely related and not strangers. He would also rely on the sale deeds that had been executed by the branch of Kandasamy to the 3rd parties and he would also refer to the sale deeds that have been executed by the plaintiff and her brothers wherein, they have traced



their title to the partition deed dated 04.09.1968. He would also contend that the properties that had been sold to the 3rd parties by the respective sharers have been included in the suit schedule properties. Therefore, their presence was necessary and they were both proper and necessary parties to the proceedings.

10. Heard the learned counsel for the revision petitioners and the learned counsel for the respondent and perused the papers.

11. Admittedly, the 3rd parties are not strangers to the plaintiff and they are close relatives (Pankalis of the plaintiff). It is an admitted fact that both parties trace the title to one Venkata Krishnan. In the year 1968, the predecessor in title of the plaintiff and defendants 1 to 3 and the 3rd parties have partitioned their property with the eldest male member of each branch representing the said branch. The partition deed consisted of 35 items of property. The said deed is also a registered one.



12. Pursuant to this deed, the plaintiff and the defendants

1 to 3 have sold the property to a third party viz., Alli by sale deed dated 16.04.1986 and in the said deed they have traced their right to the property to the partition deed dated 04.09.1968. The third parties would contend that even those properties have been included in the schedule of properties in the suit for partition.

13. Therefore, the learned III Additional District Judge, Pondicherry had rightly allowed the application and there is no reason to disagree with the same.

14. Considering the fact that the suit is of the year 2010, the plaintiff shall file an amended copy of the plaint within a period of fifteen days from the date of receipt of a copy of this order. After the additional pleadings are filed by all parties, the Court shall endeavour to dispose of the suit within a period of two months from the date of completion of the pleadings.



C.R.P.(PD).No.2438 of 2021

P.T. ASHA, J,

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15. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.02.2022

Internet : Yes/No
Index :Yes/No
Speaking / Non-Speaking
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To

The III Additional District Judge,
Puducherry.

C.R.P.(PD).No.2438 of 2021