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C.R.P. Nos. 1982, 2249 & 2262 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos. 1982, 2249 & 2262 of 2017

and

C.M.P.Nos. 9588 of 2017 & 14235 of 2019

Sabhpathhi Sharma @
Surendra Sharma,
S/o. Late Gajapathy Sharma

... Petitioner in
all C.R.P.s

Versus

1. Mrs. Vasanthi,
D/o. Late Gajapathy Sharma

2. Mr.Vidyasagar

Mrs. Kamini Sharma (died)

3. Mr. Divakar Rao

4. Mr.M.V.R.Saravanakumar
S/o. M.V.Raman

... Respondents in
all C.R.P.s

PRAYER : Civil Revision Petitions filed under Art. 227 of Constitution of India, praying to set aside the petition and order dated 21.12.2016 passed in

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I.A.Nos. 5281 to 5283 of 2016 in O.S.No. 5015 of 2004, on the file of XIV

Asst. Judge, City Civil Court, Chennai respectively.

For Petitioner : No appearance

For Respondents : Mr. T.Paranthaman for R4

ORDER

The Revision Petitioner is the plaintiff in the suit in O.S.No.5015 of 2004 on the file of XIV Asst. City Civil Court, Chennai, which was filed against his brothers and sister for the relief of partition and other consequential reliefs in respect of 1/4th share in the suit property.

2. The said suit was contested by defendants 1 to 4, however, the defendants 1 to 4 appeared before the trial court and filed a memo stating that they have no objection in allotting 1/4th share in favour of plaintiff. Accordingly, the preliminary decree was passed. Thereafter, they have filed an application in I.A.Nos. 6345 and 6346 of 2017 for passing of the final decree before the XIV Asst. Judge, City Civil Court, Chennai. During the pendency of the said proceedings, the proposed 5th defendant M.V.R.Saravanakumar purchased 3/4th share from the brothers and sister of

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plaintiff. So, he has filed three applications in I.A.Nos. 5281 to 5283 of 2016 seeking to permit him to pay the court fee, to implead him as 5th defendant in the main suit proceedings and to modify the preliminary decree. On hearing submissions of both sides, the trial court allowed all those applications. Challenging the said orders, the plaintiff preferred these Civil Revision Petitions.

3. Today, when the matters taken up for hearing, the learned counsel for 4th respondent/proposed 5th defendant submitted that the sole petitioner died on 16.04.2021 as a bachelor. There is no representation on the side of revision petitioner. But, on seeing the facts, already the final decree applications are pending before the trial court and as per the submissions of contesting 4th respondent, the petitioner died as a bachelor and his brothers and sister, who are class-2 legal heirs already on record. But, to ascertain the fact as to whether the defendants 1 to 3, who are class-2 heirs are entitled to claim share of plaintiff, the trial court has to necessarily enquire the matter. Therefore, these Civil Revision Petitions are disposed of with a direction directing the trial court to pass appropriate orders in the final decree



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applications with the right of plaintiff and to ascertain the fact as to whether the defendants 1 to 3, who are class-2 heirs, are entitled to claim share of plaintiff and to dispose the case within a period of six months from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

29.09.2022

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

XIV Asst. Judge,
City Civil Court,
Chennai.



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T.V.THAMILSELVI, J.

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