



C.R.P.No.1904 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.1904 of 2019
and
C.M.P.No.12533 of 2019

1.Vijayakandiban @ Kumaresan
2. Saravanan Petitioners

Vs

1. Padmavathy
2. Velanganni

Kumaresan (Died)

3. Rajaram
4. Osaimani
5. Aruldoss
6. Angammal
7. Thenmozhi
8. Kaniumuzhi
9. Anbarasan
10. Yuvaraj
11. Ramu @ Velmurugan
12. Somu
13. Karunakaran
14. R. Alamelu
15. R.Sagadevan
16. R. Umamaheswari Respondents



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Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the impugned order and decretal order dated 26.09.2018 passed in I.A.No.555 of 2018 in O.S.No.14 of 2015 on the file of the learned II Additional District Judge at Puducherry by allowing the above revision petition.

For Petitioners	:	Mr.Prakash Adiapadam
For R1 & R2	:	Mrs.M.Krishnaveni for Mr.E.Manikandan
For R3, R4, R6 to R10	:	Mr.S.Nirmal Kumar

ORDER

This Civil Revision Petition has been filed to set aside the impugned order and decretal order dated 26.09.2018 passed in I.A.No.555 of 2018 in O.S.No.14 of 2015 on the file of the II Additional District Judge, Puducherry, thereby allowing the petition to implead the defendants 12 to 17 as proposed defendants in the suit filed by the petitioners.

2. The petitioners filed a suit for partition as against the respondents 1 to 11. Pending suit, the first and second defendants filed written statement and specifically stated that the first plaintiff is not only the legal heir of the deceased Papathiammal and that she had left behind six sons and three daughters. He also specifically mentioned the legal heirs of



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the said Pappathiammal. Even then, the petitioners did not take any steps to implead the other legal heirs of the said Pappathiammal. However, pending suit, the respondents 12 to 17 filed a petition to implead themselves as party to the suit and claiming to be legal heirs of the deceased Pappathiammal. Though the petitioners raised objections that they are not legal heirs of the said Pappathiammal, the Trial Court allowed the petition.

3. The learned counsel for the petitioner would submit that even at the time of filing application they were not declared as legal heirs of the Pappathiammal. Subsequent to the order passed by the Trial Court, they filed a suit in O.S.No.1787 of 2020 for declaration declaring themselves as legal heirs of the said Pappathiammal. It was decreed on 01.09.2021. Therefore, they are not the legal heirs of the said Pappathiammal and the Trial Court ought not to have allowed to implead as party to the suit.

4. A perusal of the records reveals that though the respondents 12 to 17 were impleaded as party to the partition suit filed by the petitioners herein, subsequently, they filed a suit for declaration declaring themselves



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as legal heirs of the deceased Pappathiammal in O.S.No.1787 of 2020 and the same was decreed by a Judgment and Decree dated 01.09.2021. Therefore, now they are declared as legal heirs of the said Pappathiammal. If at all the petitioners have any grievance over the same, they are at liberty to agitate the same during the trial.

5. In view of the above, this Court finds no infirmity or illegality in the order impugned order and decretal order dated 26.09.2018 passed in I.A.No.555 of 2018 in O.S.No.14 of 2015 on the file of the II Additional District Judge, Puducherry. Accordingly, this Civil Revision Petition stands dismissed. The Trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

14.12.2022

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
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The II Additional District Judge,
Puducherry.



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G.K.ILANTHIRAIYAN, J.

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