



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Fifteenth day of September Two Thousand and Twenty Two
PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU
and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CMP(MD) No.7550 of 2019

IN

AS(MD) No.107 of 2013

1 K.PANDAN
2 K.SUBRAMANIAN
3 K.SEKAR
4 K.MANIMEGALAI
5 K.PITCHAIAMMAL

... PETITIONERS/PROPOSED
RESPONDENTS 17 TO 21

Vs

1 CHINNAIAN
2 CHINNAMMAL
3 MUTHUVEERAN
4 RAJU
5 PANDAN
6 ANTHONY
7 ROSALI
8 MURUGAN
9 PUSHPARAJ
10 ARJUNAN
11 VELLAIYYAMMAL
12 M.VEERABADRAN
13 M.PETCHIAMMAL
14 M.ESWARI
15 PANDAEEMMAL
16 N.MURUGESAN
17 M.AMIRTHAVALLI
18 M.PALANICHAMY

... RESPONDENTS 1 & 2/
APPELLANTS 1 & 2

... RESPONDENTS 3 TO 18/
RESPONDENTS 1 TO 16

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to implead the petitioners 1 to 5 herein as proposed respondents 17 to 21 in AS(MD)No.107 of 2013.

PRAYER IN AS(MD)NO.107/2013 :

To call for the records of the Judgement and Decree dated 04.07.2012 in O.S.No.295 of 2004 on the file of the Additional District and Sessions Judge cum Fast Track Court, Dindigul and allow this appeal with cost through out.

<https://www.mhc.tn.gov.in/judis>



ORDER : This petition coming up for orders on this day, on perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.THANGAPANDIAN, Advocate for the petitioners, the court made the following order:-

This petition has been filed seeking to implead the petitioner as proposed respondents 7 to 21 in the present appeal.

2.Heard Mr.R.Thangapandian, learned counsel appearing on behalf of the petitioner.

3.This appeal has been filed by the second and fifth plaintiffs as against the dismissal of the suit in O.S.No.295 of 2004, which was filed seeking for the relief of partition.

4.The petitioners are independently claiming right and title over one of the item of the suit properties viz., S.No.201/12. In view of the same, the petitioners have independently filed a suit in O.S.No.179 of 2014 seeking for the relief of declaration of title and permanent injunction. It is stated that the said suit is pending.

5.In view of the above, the petitioners are seeking to implead themselves as proposed respondents in this appeal, since their interest is also involved in one of the item of the suit properties.

6.In the considered view of this Court, the present appeal confines itself only to the right of the parties claiming a share in the suit properties. If ultimately the petitioners succeed in the suit filed by them and the title is declared in their favour with respect to one of the item of the suit properties, they will be absolutely entitled for that property and they will have a superior right and as a consequence, that item of suit property will get effaced from the present appeal. In our considered view, the petitioners are neither proper nor necessary parties in this appeal and by adding the petitioners as respondents, it will unnecessarily enlarge the scope of the litigation.

7.In view of the above, this petition stands dismissed. Post the appeal in the advance list for final hearing.

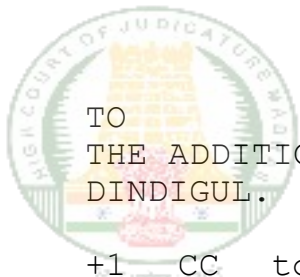
sd/-

15/09/2022

/ TRUE COPY /

/09/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CMP(MD)



19

TO
THE ADDITIONAL DISTRICT AND SESSION JUDGE CUM FAST TRACK COURT,
DINDIGUL.

+1 CC to M/s.R.THANGAPANDIAN, Advocate (SR-10012[I] dated
15/09/2022)

WEB COPY

ORDER

IN

CMP (MD) No.7550 of 2019

IN

AS (MD) No.107 of 2013

Date :15/09/2022

ns

RS/VR/SAR.1 (22.09.2022) 3P-3C