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CRP(MD)No.1625 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

CRP (MD) No.1625 of 2019

and

CMP (MD) No.8502 of 2019

1.Janaki

2.Nambi Rajan

3.Subalakshmi

4.Arun Kumar

5.Varamangai

: Petitioners

Vs.

1.R.Sankaran

2.R.Narayanan

3.R.Subbaiah

4.R.Seenivasan

5.Lalitha

6.Uma Maheswari

7.Krishnaveni

8.Sankari

9.Narmadha

10.Sankarasubbu

: Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records in connection with the fair and decreetal order dated 09.07.2019 in I.A.No.896 of 2018 in O.S.No.72 of 2018 on the file of the Sub Court, Valliyoor and set aside the same.

For Petitioners : Mr.H.Arumugam

For Respondents : No appearance for R.1

Dispensed with for R.2 to R.10

ORDER

As against the orders of the Sub Court, Valliyoor, in I.A.No.896 of 2018 in O.S.No.72 of 2018, dated 09.07.2019, this civil revision petition is filed.

2.The petitioners are third party to the suit in O.S.No.72 of 2018. The suit was filed by the first respondent / plaintiff for partition of the properties of his father, namely, Ramaraja Reddiyar. According to the petitioners, item no.1 of the suit schedule property was



jointly purchased by Ramaraja Reddiyar and one Thirumalainambi Reddiyar on 13.12.1954. The fifth petitioner herein is the daughter and the petitioners 1 to 4 are the grandchildren of Thirumalainambi Reddiyar. Therefore, the petitioners, being the legal heirs of Thirumalainambi Reddiyar, have filed an application in I.A.No.896 of 2018 under Order 1 Rule 10 CPC to implead themselves as parties to the suit. However, the said application was dismissed by the trial Court.

3.Learned Counsel for the petitioners submits that the first respondent / plaintiff has filed the suit for partition and in the plaint itself, he has specifically mentioned that the property in item no.1 comprised in S.no. 357/1A was jointly purchased by his father, Ramaraja Reddiyar along with Thirumalainambi Reddiyar on 13.12.1954 and thereafter, by way of an oral partition, 14 cents were allotted to Ramaraja Reddiyar. Therefore, the plaintiff has sought for a share in the 14 cents, based on the oral partition said to have taken place between Ramaraja Reddiyar and Thirumalainambi Reddiyar.



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4. According to the learned Counsel for the petitioners, there is no such oral partition. Ramaraja Reddiyar and Thirumalainambi Reddiyar are brothers and by projecting that there was an oral partition, the properties belonging to the petitioners are also added in the partition suit and therefore, they are necessary parties to the suit. He further submitted that in the interlocutory application filed by them, the first respondent / plaintiff has not raised any serious objections by filing counter and has, in fact, made an endorsement that no counter. Despite the same, the trial Court has dismissed the application and therefore, he prayed for interference.

5. Heard the arguments advanced by the learned Counsel for the petitioners and perused the available materials. Though notice was served and name was also printed in the cause list, there is no representation for the first respondent / plaintiff. Notice to the remaining respondents was dispensed with by this Court, by order dated 17.06.2022, as they were the defendants in the suit.



6.As rightly pointed out by the petitioners' Counsel, the first respondent / plaintiff has specifically stated in the plaint that item no.1 in the suit schedule property was originally purchased by his father Ramaraja Reddiyar and Thirumalainambi Reddiyar in the year 1984 and thereafter, according to the first respondent / plaintiff, there was an oral partition. The petitioners, who are the legal heirs of Thirumalainambi Reddiyar, claim that there was no such oral partition. Whether there was any oral partition or not and whether the plaintiff is having a share in the suit schedule property (item no.1), which was jointly purchased by Ramaraja Reddiyar and Thirumalainambi Reddiyar, have to be decided during the course of trial, for which, the petitioners are necessary parties.

7.For the aforesaid reasonings, the order impugned in this revision dated 09.07.2019 stands set aside. The petition in I.A.No.896 of 2018 is allowed and the petitioners are impleaded as defendants 10 to 14 in O.S.No. 72 of 2018. Since the suit is of the year 2018, the trial Court shall endeavour to dispose of the suit as expeditiously as possible.



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In fine, this civil revision petition stands allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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15.07.2022

To

The Subordinate Judge,
Valliyoor.

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