



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2022

CORAM

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THE HONOURABLE **MS.JUSTICE P.T.ASHA**

C.R.P. (MD)Nos.1756 & 1757 of 2021

and

C.M.P. (MD)No.9373 of 2021

Shanmugam (died)

1.Nagalakshmi

2.Jayarani

3.Muthatha

Kayambu (died)

... Petitioners/Petitioners/ 2
to 3 Plaintiffs

Vs.

Kayambu (Died)

1.Muthukaruppan

2.Kaliyammal

3.Pappa

Sakkarai (died)

4.Govindaraj

5.Palanivelu

6.Kalimuthu

7.Muniyandi

Alagar (died)

8.Velusamy

9.Rasu

10.Haridoss

P.Karuppaiah (died)

11.Sevvali

12.Boominathan

13.Kottaisamy

14.Dharmaraj

15.Baciyam

16.Janaki

17.Chellammal

18.Rasu

19.Loganathan

20.Gnanasekaran

21.Ulagammal

22.Sankaran

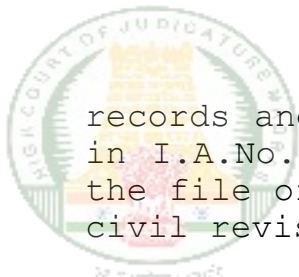
23.Gopal

24.Govindammal

... Respondents/Respondents/Defendants

PRAYER in CRP. (MD)No.1756 of 2021:- Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the

<https://hcservices.ecourts.gov.in/hcservices/>



records and set aside the fair and decreetal order dated 18.02.2019 in I.A.No.887 of 2018 in I.A.No.45 of 2005 in O.S.No.30 of 1986 on the file of the District Munsif Court, Ramanathapuram and allow this civil revision petition.

PRAYER in CRP. (MD)No.1757 of 2021:- Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order dated 16.04.2021 in I.A.No.33 of 2021 in O.S.No.30 of 1986 on the file of the District Munsif Court, Ramanathapuram and allow this civil revision petition.

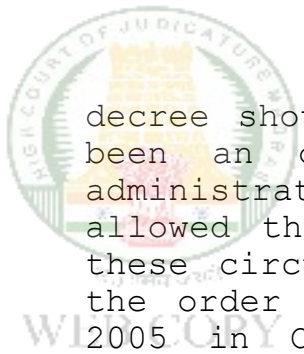
For Petitioner : Mr.H.Lakshmi Shankar
(in both CRPs.)
For R1 & R2 : No Appearance
(in both CRPs.)
R3 to R24 - Dispensed with (in both CRPs.)

COMMON ORDER

Failure of the learned District Munsif, Ramanathapuram in exercising the jurisdiction vested with him, has resulted in decree holder approaching this Court under Article 227 of the Constitution of India for redressal. This Court does not want to travel into the detailed facts of the case. Suffice it to state that the revision petitioner is aggrieved on account of the fact that one item of the suit property, which was included by virtue of an amendment by order dated 11.08.1993 in I.A.No.932 of 1993 has not been incorporated in the decree in O.S.No.30 of 1986 dated 29.04.1994. The revision petitioner has filed final decree proceedings in I.A.No.45 of 2005. Thereafter, they had taken out this application in I.A.No.887 of 2018 to correct the decree by including the 8th item of the suit property. Similar rectification petition was filed in I.A.No.33 of 2021. By order dated 08.02.2019, the learned District Munsif, Ramanathapuram had rejected the application in I.A.No.887 of 2018 on the ground stating that the order of the trial Court had merged with the trial of the appellate Court and therefore, amendment cannot be ordered. By order dated 16.04.2021, the learned Judge had also dismissed the application in I.A.No.33 of 2021 on the very same line. Challenging the same, the plaintiffs are before this Court.

2.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent 1 and 2, none appeared on behalf of them.

3.The reasoning given by the learned Judge is rather strange. Admittedly, the 8th time of the property had been included into the schedule by virtue of an order of amendment in I.A.No.932 of 1993 dated 11.08.1993. Therefore, while drafting the decree, the Court ought to have been conscious about the said amendment order and



decree should have been accordingly drafted. However, there has been an omission. The omission is only on account of an administrative error/oversight. The learned Judge ought to have allowed the application and amended the decree, accordingly. In these circumstances, the civil revision petitions are allowed and the order dated 18.02.2019 in I.A.No.887 of 2018 in I.A.No.45 of 2005 in O.S.No.30 of 1986 and the order dated 16.04.2021 in I.A.No.33 of 2021 in O.S.No.30 of 1986 are set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The District Munsif,
Ramanathapuram.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-3188[F] dated 31/01/2022)

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31.01.2022

SR(CO)

KB(24.02.2022) 3P 3C