



CRP PD(MD)No.2175 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP PD(MD) No.2175 of 2022 and
CMP(MD) No.10109 of 2022

Tamilselvan

... Petitioner

Vs

Jai Pushpa Raj (Died)

1.Akila
2.Chellaiah
3.Rajeswari

Jothi (Died)
4.Jeya
5.Balasaraswathi
6.Sadayandi
7.Selva Prabaharran
8.Sundar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.03.2022 made in I.A.No.9 of 2021 in O.S.No.29 of 2010, on the file



CRP PD(MD)No.2175 of 2022

of the Sub Court, Theni and allow this Civil Revision Petition.

For Petitioner : Mr.K.Gugan

ORDER

This Civil Revision Petition is filed as against the order passed by the learned Sub Judge, Theni in I.A.No.9 of 2021 in O.S.No. 29 of 2010, dated 30.03.2022.

2.The case of the petitioner is that the respondents 1 & 2 filed a suit in O.S.No.29 of 2010 before the Sub Court, Theni as against the defendants for the relief of permanent injunction. According to the petitioner, the suit schedule property belonged to the petitioner's grandfather Manickam and one Seeniammal and the respondents/plaintiffs created forged documents and filed the above suit without impleading the petitioner as a party to the suit. Since the petitioner is having right over the suit schedule property, he filed an



CRP PD(MD)No.2175 of 2022

WEB COPY

application in I.A.No.9 of 2021 in O.S.No.29 of 2010, under Order 1 Rule 10(2) of Civil Procedure Code to implead him as a party to the suit and the same was dismissed by the trial Court. Aggrieved over the same, the present Civil Revision Petition is filed.

3.The learned counsel appearing for the petitioner submits that even in the written statement filed by the defendants, there was a mentioning that the petitioner is the legal heir of Chellaiah. The trial Court failed to consider that the first respondent filed the above suit by suppressing certain facts. Hence, the order of the trial Court needs interference.

4.This Court considered the submissions of the learned counsel for the petitioner and also perused the materials placed on record.



CRP PD(MD)No.2175 of 2022

5.The respondents 1 & 2 herein have filed a suit in O.S.No.

29 of 2010 as against the defendants for the relief of permanent injunction. On completion of evidence by either side and when the suit was posted for impleading the legal heir of first respondent, the petitioner herein has filed an interlocutory application to implead him as a party to the suit that he is also having right in the suit schedule property. The trial Court while dismissing the application has held that though the petitioner claims right over the suit schedule property, he has not produced any documentary evidence to prove the same. The trial Court has also held that in order to decide the issue involved in the suit, there is no necessity to implead the petitioner as a party and rightly dismissed the application.

6.In view of above, this Court is not inclined to interfere with the order of the trial Court. However, it is always open to the petitioner to file a suit for declaration, if he is so advised. Accordingly,



CRP PD(MD)No.2175 of 2022

WEB COPY

this Civil Revision Petition is dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

02.11.2022

Internet : Yes

Index : Yes / No

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To

The Sub Court, Theni



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CRP PD(MD)No.2175 of 2022

B.PUGALENDHI, J.

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CRP PD(MD) No.2175 of 2022 and
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02.11.2022