



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2022

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THE HONOURABLE MRS.JUSTICE S. ANANTHI

CRP(MD) .No. 412 of 2017 and
CMP(MD) .No.2064 of 2017

Mariyappasamy .. petitioner/Petitioner/ plaintiff

Vs.

1.Kanagaraj
2.S.Rajeswari
3.Arumugathammal
Saraswathi (died)
4.Periyasamy
5.V.N.Murugan
6.Susila
7.Nallammal

Ganapathy Konar (died)

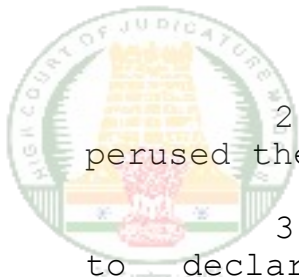
8.Kalyana sundaram
9.Indimai @ Uma Maheswari
10.Ramu Pillai .. Respondents/Respondents/
Defendants 1 to 3, 5 to 8, 10 to 12

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 19.10.2016 in I.A.No.542/2014 in O.S.No.339 of 2007 on the file of District Munsif Court, Madurai Taluk, Madurai.

For Petitioner	:	Mr.R. Devaraj
For R1	:	Mr. Suriya Bagavan Dhas
For R4 to R10	:	Mr. V. Maragathavel
For R2, 3, 5 to 9	:	No appearance

ORDER

The revision petitioner / plaintiff filed this revision to set aside the order passed in I.A.No.542 of 2014 in O.S.No.339 of 2007 on the file of the District Munsif Court, Madurai Taluk, Madurai.



2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. Originally, the plaintiff filed a suit for declaration to declare the various registered deeds executed by the respondents / defendants in the suit and to declare that the petitioner / plaintiff is entitled to 4/9 share in the suit 1 to 4 items and hand over the possession by appointing Advocate Commissioner, to declare that the petitioner / plaintiff is entitled to 1/3rd share in items 5 to 7 of the suit properties and to hand over the possession, to grant mandatory injunction directing the 6th respondent to remove the illegal construction in the property to the extent of 12x10 feet put up by her in the 3rd item of the suit property, to grant permanent injunction restraining the respondents 3,4,6,8,10 and 11 and in any way alienating or making any encumbrance over the suit properties and to direct the defendants 3 to 12 to pay mesne profits to the plaintiff. In the said suit 4th defendant set ex parte and also subsequently died.

4. According to the plaintiff, the 4th defendant sold the 2nd item of the suit property to the 5th defendant on 12.02.2004. Now, regarding the 2nd item of suit property, the 4th defendant has no right. So, LR's of 4th defendant are not necessary to implead for the death of 4th defendant. Even though the declaration relief sought for against the 4th defendant has no right in the 2nd item of property since he sold the property to 5th defendant, but the trial Court dismissed the said Interlocutory Application .

5. The petitioner filed this Interlocutory Application stating the 4th defendant is not necessary and record the same. But, the trial Court dismissed the application on the ground that LR's of 4th defendant must be added in this suit. Since the 4th defendant already sold the property to 5th defendant, he has no right over the property and the Legal Heirs of 4th defendant are not necessary party to the suit and only the 5th defendant is necessary to conduct the case regarding the 2nd item of the property.

6. With these observations, the Civil Revision Petition is allowed and the order passed in I.A.No.542/2014 in O.S.No.339 of 2007 on the file of District Munsif Court, Madurai Taluk, Madurai is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

The District Munsif,
Madurai Taluk, Madurai.

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+1 CC to M/s.R.DEVARAJ, Advocate (SR-8831[F] dated 25/02/2022)
CRP(MD) .No. 412 of 2017 and
CMP(MD) .No.2064 of 2017

24.02.2022

KS (CO)

GC(15.03.2022) 3P 3C