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C.R.P. No. 401 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 401 of 2023
and
C.M.P. No. 3368 of 2023

J.P.Chandrabose (died)

1. J.C.Eswara Prasad
2. C.Vasanth
3. S.Kalpana
4. S.Niranjana

... Petitioners

Vs

1. The District Forest Officer,
London Mission Road,
Tirupattur.
2. The District Collector,
O/o. The District Collector,
Tirupattur.
3. The Assistant Executive Engineer,
Railway Station Road,
Tirupattur.
4. The Block Development Officer,
Jollarpet, Vaniyambadi Main Road,
Tirupattur.

... Respondents



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PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 30.11.2022 passed in I.A.No. 01 of 2022 in O.S.No. 185 of 2011 on the file of Principal District Munsif, Tirupattur, Vellore Dt.

For Petitioners : Ms.Elizabeth Ravi

For Respondents : Mr.M.R.Gokul Krishnan,
Addl. Govt. Pleader

ORDER

Challenging the impugned order passed in I.A.No. 01 of 2022 in O.S.No.185 of 2011 on the file of Principal District Munsif, Tirupattur, Vellore District, the 2nd plaintiff along with proposed parties preferred this Civil Revision Petition.

2. Perused the records. As the 1st plaintiff died, the Revision Petitioner wanted to implead his wife and two daughters, for which, he has filed an interlocutory application in I.A.No.01 of 2022 before the court below and the said application was dismissed by the trial court stating that they need not be added as necessary parties in the suit. Challenging the said



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finding, the 2nd plaintiff preferred this Revision Petition.

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3. In fact, originally, father of this petitioner viz., J.P.Chandrabose filed a Suit for declaration and mandatory injunction in respect of the suit schedule property. During the pendency of the proceedings, his father Chandrabose died. Thereafter, his son J.C. Eswara Prasad filed an application to implead him as a party in the suit based on a Will executed by his father in I.A.No. 917 of 2013 and in that application, the 2nd defendant District Collector has not filed any objections. Hence, the said application was allowed, thereby, the present Revision Petitioner was impleaded as 2nd plaintiff. Thereafter, now when the matter was reserved for argument, he has filed another interlocutory application in I.A.No. 01 of 2022 to implead his mother and his sisters as necessary parties to the proceedings, but the same was declined by the trial court.

4. Heard and considered rival submissions made by learned counsel for petitioner as well as Addl. Government Pleader appearing for respondents and perused the records.

5. On seeing the facts, it reveals that the present 1st Revision



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Petitioner filed an application in I.A.No. 917 of 2013 to implead him as a legal heir of deceased 1st plaintiff based on a Will said to be executed by his father on 03.05.2013. The trial court has also issued notice to the Government Pleader, however, as he has not raised any objections, the said application was simply allowed without subject to proof and relevancy of the Will. After examination of witnesses, now the 2nd plaintiff wanted to implead his mother and his sisters. Strangely, this Court finds that the Will is not proved by the 1st Revision Petitioner/2nd plaintiff as per manner known to law. However, if he wanted to implead himself or to proceed with the suit, he ought to prove the Will, but till date, Will was not proved and on the other hand, he has filed an application to implead himself, which was allowed and subsequently he has filed another application to implead his family, so, he contend that the Will need not be proved. Such contentions cannot be accepted, because already in an application in I.A.No.917 of 2013, he claimed himself as a legal heir based on the Will said to be executed by his father. So, the Trial Judge is directed to give one more opportunity to the 2nd plaintiff to prove the Will by adducing additional evidence. So also, other legal heirs may be impleaded as necessary parties to



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the suit, since the suit was filed for declaration. Furthermore, the respondents herein are the Government Officials, they may not have any objection, since the burden is cast upon the plaintiffs and they have to proceed with the suit.

6. Considering the above facts and circumstances, this Civil Revision Petition is allowed with a condition that before the trial court, the 2nd plaintiff has to prove the Will said to be executed in his favour on 03.05.2013 as per manner known to law with necessary evidence. Moreover, since the suit is pending from the year of 2011, the trial court is directed to complete the trial and dispose the suit within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is also closed.

06.03.2023

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

Principal District Munsif,
Tirupattur, Vellore Dt.

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T.V.THAMILSELVI, J.

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