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C.R.P.No.1141

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1141 of 2019

and

C.M.P.No.7386 of 2019

- 1.Subbulakshmi @ Subbayal
- 2.Kannammal

...Petitioners/ Petitioners 1 & 2/ defendants 1 and 2

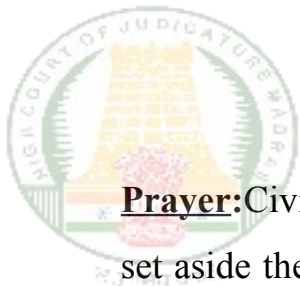
[P 1 Died, P 2 and Respondents 6 & 7, who are already on record as Lrs of the deceased P-1, viz.,Subbulakshmi as per memo dated 19.06.2023 and vide court order dated 19.06.2023 made in C.R.P.No.1141 of 2019 and C.M.P.No.7386 of 2019 by NSSJ]

Vs.

- A.K.Muthusamy (Died)
- 1.A.K.Venkatachalapathy
 - 2.A.K.Eswaramurthy
 - 3.Thavamani Devi
 - 4.Shantha Dhanapathy
 - 5.D.Uma Shankar (Died)
 - 6.Eswari
 - 7.Sathishkumar
 - 8.Akilandeswari
 - 9.Minor V. Sai Aadiraiyan
 - 10.Minor Umaiyal Kamatch

...Respondents 1 to 6/ Respondent 1 to 6/ Plaintiffs 1 to 6

[R5 died. Respondents 8 to 10 brought on record as Lrs of the deceased R5 viz., D.Uma Shankar and 8th Respondent is appointed as the Guardian of Minor Respondents 9 and 10 vide court order dated 19.06.2023 made in C.M.P.Nos.26 & 27 of 2022 in C.R.P.No.1141 of 2019 by NSSJ].



C.R.P.No.1141

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 07.09.2018 in I.A.No.1285 of 2015 in O.S.No.398 of 2010 on the file of the District Munsif Court at Gobichettipalayam.

For Petitioners	:	Mr.M.Naraayanaswamy
For Respondents	:	
For RR9 & 10	:	Minor represented by R8
For R5	:	died-steps taken
For RR6 and 7	:	-No Appearance-
For RR1 to 4,8	:	Mr.J.Sivanandaraj
	:	Standing counsel
	:	for M/S. Riddhim Sharma

ORDER

This is a revision arising out against an order passed under Section 10 of the Code of Civil Procedure. The parties in O.S.No.434 of 2004 and the parties in O.S.No.398 of 2010 are one and the same.

2. The first suit was filed by one Mr.M.P.Palanisamy Gounder seeking for declaration of title for the same schedule of property covered under O.S.No.398 of 2010. The said suit for declaration of title was dismissed and the first appeal filed in A.S.No.61 of 2010 was partly decreed.

3. Both sides agree that two second appeals have been preferred before this court in S.A.No.448 of 2012 and S.A.No.497 of 2013. If in both the second appeals, the legal heirs of Palanisamy Gounder prove their title, then that issue cannot be reopened by the District Munsif Court at Gobichettipalayam.



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4. The issues being in common, the Learned Trial Judge erred in dismissing the application under Section 10 of CPC. Consequently, the order passed in I.A.No.1285 of 2015 in O.S.No.398 of 2010 dated 07.09.2018 is set aside. The trial of the suit in O.S.No.398 of 2010 will remain stayed pending till disposal of S.A.No.448 of 2012 and S.A.No.497 of 2013.

5. The present civil revision petition is allowed. No costs. Connected Civil Miscellaneous Petition is closed.

31.07.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
nst

V. LAKSHMINARAYANAN, J.



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nst

To:
The District Munsif Court,
Gobichettipalayam.

C.R.P.No.1141 of 2019
and
C.M.P.No.7386 of 2019

31.07.2023