



WEB COPY

CRP No.633 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P. No.633 of 2014

and

M.P.No.1 of 2014

1. Ramalingam (Deceased)

2. Kanniyammal

3. Suresh

4. Sudakar

5. Gopi

(Petitioners 2 to 5 are impleaded as

LRs of the deceased 1st petitioner

vide Court order dated 25.01.2023

in CMP No.21409 to 21411 of 2022

in CRP No.633 of 2014)

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Petitioners

Vs

1. Paramanandham

2. Govindasamy

3. Masilamani

4. Selvi

5. Poongodhai

6. Annapoorani

7. Minor.Aswathi

8. Abirami

9. Arumugam

10. Muniyammal

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Respondents



Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 05.11.2013 made in I.A.No.123 of 2013 in O.S.No.119 of 2007 on the file of the Subordinate Judge, Kallakurichi.

For Petitioners : Mr.D.Murugan Prakash
For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 05.11.2013 made in I.A.No.123 of 2013 in O.S.No.119 of 2007 on the file of the Subordinate Judge, Kallakurichi.

2. Though notice has been served on the respondents and their name is printed in the cause list, there is no representation for the respondents either in person or through counsel.

3. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit for partition. Pending suit, the petitioner filed an application seeking amendment of plaint. Originally the petitioner sought for 1/3rd share in the suit property. The suit property originally belonged to one Manga Mooper, who is the paternal grandfather,



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as his ancestral properties. He had two sons viz., Ramasamy and Lakshmanan. After his demise, his two sons succeeded the estates. The first son i.e., Ramasamy's first wife Maari Muthu Ammal and the defendants are heirs of Ramasamy through Maari Muthu Ammal. One Lakshmi was the legally wedded wife of the another son Lakshmanan. Before family partition, Lakshmanan died intestate and hence Ramasamy married his wife viz., Lakshmi. The petitioner and the third defendant were begotten by Lakshmi through Ramasamy. The said Lakshmi had inherited half share in the family properties through Lakshmanan, which on the demise of Lakshmi, should devolve on the petitioner and on the other legal heirs. Due to ignorance of facts, while filing the suit, the petitioner omitted to state the half share of Lakshmi from Lakshmanan and the respective devolution of her share to the name of the petitioner and the other legal heir. Therefore, he sought for amendment in the suit.

4. The amendment sought for by the petitioner would not cause any prejudice to the respondents. However, the Court below dismissed the petition for the reason that post trial, amendment was not permissible. In order to avoid multiplicity of proceedings, the order dated 05.11.2013 made



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in I.A.No.123 of 2013 in O.S.No.119 of 2007 on the file of the Subordinate Judge, Kallakurichi, is hereby set aside. Accordingly, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

25.01.2023

(3/3)

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

Lpp

To

The Subordinate Judge,
Kallakurichi.



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G.K.ILANTHIRAIYAN,J.

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