



CRP. No. 2319 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 2319 of 2023
& CMP No. 14083 of 2023

1.B.Baby
2.V.Vasantha

...Petitioners

Vs.

1.S.Muniyammal
2.K.Sundaramoorthy
3.V.Indra
4.S.Purushothaman
5.S.Madhavan
6.R.Renuga Devi

....Respondents

PRAYER : This petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed in I.A No. 1 of 2023 in O.S No. 110 of 2013 by the District Munsif-cum-Judicial Magistrate Court, Uthiramerur.

For Petitioners : Mr.M.Prem Kumar
For Respondents : Mr.D.Velu



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ORDER

This petition has been filed to to set aside the fair and decreetal order passed in I.A No. 1 of 2023 in O.S No. 110 of 2013 by the District Munsif-cum-Judicial Magistrate Court, Uthiramerur.

2. The petitioner herein filed a suit in O.S No. 110 of 2013 before the District Munsif-cum-Judicial Magistrate Court, Uthiramerur, for the relief of partition and separate possession. The plaintiff and the first defendant are daughters of the late K.Sandhiammal, the second defendant is the husband of the first defendant and also the brother of the husband of the second plaintiff, third and sixth defendants are the daughter and the fourth and fifth defendants are the sons of the first and second defendants. The petitioners stated that the suit property is belonged to Sandhiyammal who is the second class legal heir to Poongavanam and Alamelu spouse. Poongavanam's own sister Dhanakottiyammal is the mother of the Sandhiyammal, the said aspect was not mentioned in the plaint. Hence the petitioner filed I.A No. 1 of 2023 in O.S No. 110 of 2013 to amend the plaint and the said application was objected by the respondents, after considering the submissions on either side the Court below dismissed the said application stating that by way of amendment the petitioners introduce new cause of action. Challenging the



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same the petitioners filed this petition.

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3. The learned counsel for the petitioner submits that the above amendment would not change the nature of the suit since because all the plaintiffs and the defendants are daughter of the Sandhiyammal who is the sister of the Dhanakottiyammal and it is admitted fact that the said Dhanakottiyammal and Sandhiyammal are sisters who has no issues hence through second class legal heir they are claiming right over the suit property by making said amendment, which would not change the nature of the suit. The learned counsel for the respondents submits the petitioners filed this petition in order to fill up the lacunae. Hence he prays to dismiss the revision.

4. Considering the submission on either side, the petitioners wants to amend the plaint in Para 4 as Poongavam – Alamelu spouse died issues, hence Poongavanam's own sister Dhanakotti ammal's only daughter Sandhiyammal is the second class legal heir to them. Now the case is posted for arguments, this court is of the view that the said amendment would not change the nature of the suit. Hence, the order passed by the District Munsif-cum-Judicial Magistrate Court, Uthiramerur, in I.A No. 1 of 2023 in O.S No. 110 of 2013 is set aside.



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WEB COPY 5. In result, this Civil Revision petition is disposed of. No cost.

Consequentially, connected miscellaneous petition is closed.

17.11.2023

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To

1. The District Munsif-cum-Judicial Magistrate Court, Uthiramerur.



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T.V.THAMILSELVI,J.

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