



C.R.P.(NPD)No.3094 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD).No.3094 of 2019 and
CMP.No.20134 of 2019

M/s.Balu Exports
Rep. by its partner A.Jagadeesan
S/o.Appachi gounder,
D.No.54, Amarjothi A.S.Nagar,
Cheran street, Kangayam Road,
Tirupur Taluk.

.. Petitioner

VS

Santhiammal (Died)

1.N.Palanisamy
2.C.Kumarasamy
3.Valliammal
4.C.Subramaniam
5.Ramasamy

Rajammal (Died)

6.Pappammal
7.Vijayalakshmi
8.Kaliammal
9.Mariammal
10.Chinniyagounder
11.Saraswathi
12.Govindammal
13.Valliammal



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14.Kannappan
15.Subramaniam

Karrupasamy (Died)

16.Vellingiri
17.Ramathal

C.Karupannan (Died)

18.C.Palanisamy
19.Rangasamy
20.K.Muthusamy
21.Ramathal
22.Ponnammal
23.Arathal
24.A.Chinnasamy
25.Ramasamy
26.A.Mylsamy
27.A.Shanmugam
28.S.Perumalsamy
29.Velusamy
30.Rangasamy
31.S.Ammasaiappan

Deivathai (Died)

32.Kaliappan
33.Easwaran
34.Kuppammal
35.Ammani
36.Subramaniam
37.Nataraj
38.Nagaraj
39.Saraswathi
40.Chinnasamy
41.Minor Sivanathan

.. Respondents



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Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the Subordinate Judge's Court at Palladam, dated 26.03.2019 in I.A.No.272 of 2018 in O.S.No.329 of 2018.

For Petitioners : Mr.P.Valliappan, Senior Counsel
for Mr.Deeraj

For Respondents : Mr.V.N.Subramaniam
(for R2 to R5, R7 to R17)

No Appearance (for R1, R6, R22, R38)

Not ready notice – (for R18 to R21, R23
to R33, R39 & R40)

R34 to R37 – Refused

R41 – Minor (Represented by R31)

ORDER

I.A.No.272 of 2018 in O.S.No.329 of 2018 has been filed to reject the plaint on the ground that there is no cause of action. O.S.No.329 of 2018 is a suit for partition and separate possession. The civil revision petitioner is the 19th defendant.

2. According to the plaintiff, he has purchased a portion of the property which belongs to the joint family of Valliammal and Nagammal wives of Chinniah Gounder. According to learned counsel for the petitioner, the plaintiffs have not proved that they are the legal



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representatives of Chinniah Gounder and therefore, they are not entitled to maintain the claim.

3.He would also state that the plaintiffs have not provided any document to show that the property purchased by the civil revision petitioner is a joint family property.

4.Heard Mr.P.Valliappan, learned counsel appearing for the petitioner and Mr.V.N.Subramaniam, learned counsel appearing for the respondents 2 to 5 and 7 to 17.

5.In an application for rejection of plaint, all I have to do is to read the plaint and see if there is a cause of action. The plaintiffs claim is that the plaintiffs and defendants 1 to 15 are the legal heirs of Chinniah Gounder and wives Nagammal and Valliammal. Chinniah Gounder had four sons and three daughters through Nagammal and three sons and three daughters through Valliammal. The relationship between the parties necessarily have to be proved at the time of trial. The plaint also reads that plaintiffs and defendants 1 to 18 are in joint possession of the property.

6.Despite being put on notice, the 19th defendant had purchased the property from some of the defendants. That has been specifically averred to in paragraph 11 of the plaint. Whether the property belongs to



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Amavasai Gounder or whether the descendants of Chinniah Gounder have a share in the property necessarily has to be gone into at the time of trial. The defence taken by the defendants is irrelevant at the time considering an application for rejection of plaint. The trial Court has rightly dismissed the application and it requires no interference.

7.This civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

.07.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Subordinate Judge's Court,
Palladam.



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V. LAKSHMINARAYANAN,J.

VS

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