



C.R.P.Nos. 3388 & 3425 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.Nos. 3388 & 3425 of 2023

and

C.M.P.Nos. 21049 & 21252 of 2023

C.R.P.No. 3388 of 2023

K.A.Shanawaskhan(Died)

1.S.Pyari Beevi
2.A.Parveen
3.K.Haseena
4.S.Rabiathul Basariya
5.S.Ajmalkhan
Petitioners

..

Vs

1.M.Yahiakhan
2.M.Gulabjohn
3.M.Sadiq Batcha

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decreetal order passed in I.A.No.3 of 2023 in O.S.No.182 of 2011 on the file of the Additional District Munsif Court, Pollachi dated 19.06.2023.



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For Petitioners

: Mr.S.Prabhu

C.R.P.No. 3425 of 2023

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K.A.Shanawaskhan(Died)

- 1.S.Pyari Beevi
- 2.A.Parveen
- 3.K.Haseena
- 4.S.Rabiathul Basariya
- 5.S.Ajmalkhan
- 6.Sherfunisha Aziz
- 7.Ayufkhan @ Naheepkhan
- 8.Aththaulakhan
- 9.Dhayeera

.. Petitioners

... Proposed parties

Vs

- 1.M.Yahiakhan
- 2.M.Gulabjohn
- 3.M.Sadiq Batcha

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decreetal order passed in I.A.No. 4 of 2023 in O.S.No. 182 of 2011 on the file of the Additional District Munsif Court, Pollachi dated 19.06.2023.

For Petitioners

: Mr.S.Prabhu

COMMON ORDER

These Civil Revision Petitions are filed challenging the impugned order passed in I.A.Nos. 3 and 4 of 2023 in O.S.No. 182 of 2011, the plaintiffs have preferred these revisions.



2. Before the trial Court, the plaintiffs / petitioners herein filed an application to reopen the case and want to implead some of the legal heirs of the deceased Abdul Aziz Khan. That application was dismissed by the trial Judge holding that after 12 years, after the completion of the evidence, as such cannot be entertained. Aggrieved by the said finding, the plaintiffs have preferred these revisions.

3. The learned counsel for the petitioners submitted that though the suit was filed in the year 2011, during the pendency of the same, the original plaintiff died. So they took steps to implead the legal heirs but omitted to implead the legal heirs of Abdul Ajiz Khan. So they filed an application in I.A.No.4 of 2023 to add them as 7 to 10 plaintiffs in the suit.

4. Admittedly, the plaintiffs' side evidence was closed and thereafter, the present application was filed. But necessity arose to implead the legal heirs due to the death of the original plaintiff during the pendency of the proceeding. Moreover, the defendants also raised objection that the suit is bad for non-joinder of necessary parties. Originally, suit is filed for



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relief of partition, therefore, all the parties are necessarily to be impleaded who are having claim in the property, if not, it will lead to multiplicity of proceeding but the trial Judge failed to appreciate the legal proposition.

5. Accordingly, the finding of the trial Court in I.A.Nos.3 and 4 of 2023 in O.S.No.182 of 2011 is set aside and these Civil Revision Petitions are allowed. Plaintiffs / petitioners are directed to cooperate for the proceeding. Liberty is granted to the defendants / respondents herein to file additional written statement, if any. The trial Court namely Additional District Munsif Court, Pollachi is directed to proceed with the matter and dispose the same, within four months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

08.12.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Additional District Munsif Court, Pollachi.



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T.V.THAMILSELVI, J.

AT

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