



CRP(PD)No.448



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(PD)No.4487 of 2017
and C.M.P.No.21180 of 2017**

- 1.A.Haranadhaiah(died)
2. A.V.Prabakar
3. A.T.Vasantha
4. Y.R.Arunkumar
5. B.Kiran Kumar

6. Sundaramma
7. Y.A.Gajalakshmi
8. Sumathi
9. D.Nagalakshmi

... Petitioners

(Petitioners 6 to 9
brought on record as legal heirs of the
deceased 1st petitioner viz.,
A.Haranadhaiah vide Court order
dated 18.07.2023 made in C.M.P.No.13365 of 2021)

Vs.

- 1.V.Dhanasekar
- 2.V.Murugesan
- 3.V.Pooshanam
4. Ramalingam
5. V.Rajendran
6. V.Radha
7. V.Punniyakoti



8. V.Ravi

9. V.Usha

10. V.Srimathi

11. V.Jamuna

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 23.10.2017 in I.A.No.3507 of 2017 in O.S.No.4092 of 2014 on the file of the learned XV Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.R.Krishnasamy

For R2 : Mr.R.Suryaprakash

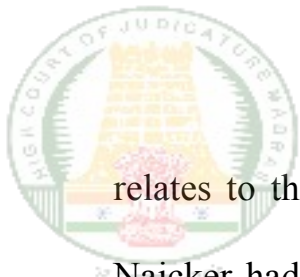
For RR3 to 5, 7
and 8 : Ms.K.Udhayaselvi

For R9 to R11 : No appearance

ORDER

The revision arises against an order, whereby the 1st respondent was added as a party to the proceedings initiated by the civil revision petitioners in O.S.No.4092 of 2014 on the file of the XV Assistant City Civil Court, Chennai.

2. The claim of the civil revision petitioners/plaintiffs is that the property belonged to one Samy Naicker. The said Samy Naicker had two sons namely, Thangavel Naicker and Manickavel Naicker. One Kanniammal is the wife of Thangavel Naicker. The said Thangavel Naicker died without any issues. The dispute



WEB COPY

relates to the branch of Manickavel Naicker and his wife Dhanammal. Manickavel Naicker had only one son by name, Govindasamy Naicker, who was twice married. Through the first wife Govindammal, Govindasamy Naicker had a daughter by name, Saraswathi and through the second wife Dhanakodiammal, he had a daughter by name, Nagabooshanammal. Govindammal, Nagabooshanammal, Saraswathi and Kanniammal entered into an agreement of sale with one Poongodiammal. Since the sale deed was not executed as per the agreement dated 22.11.1994, a suit for specific performance was presented in O.S.No.124 of 1987 on the file of the Sub Court at Tiruvallur. The parties to that suit are Govindammal and others. The suit was subsequently transferred and renumbered as O.S.No.1693 of 1991 on the file of the City Civil Court, Chennai. Subsequently, the legal heirs entered into a compromise and a document was registered in document No.4120/1994 on the file of the Sub Registrar Office, Sembiam, on 22.07.1994. The executants were Saraswathi and Shanthi, who are the children of Govindasami Naicker & Govindammal and Nagabooshanammal along with her children. The other branch of Samy Naicker's family, that is the daughter's family were not parties to the suit.

3. The claim of the 1st respondent is that he is the grandson of Manickavel Naicker through his daughter Mariammal and therefore, claims a share in the property.



WEB COPY

4. Mr.R.Krishnasamy, learned counsel for the petitioners would submit that in the proceedings initiated in O.S.No.4092 of 2014, the proposed party, 1st respondent is neither proper nor necessary party.

5. A reading of the plaint especially paragraph nos.4, 5 and 6 shows that the plaintiffs' claim the property through Mariammal and Muniammal, the daughters of Manickavel Naicker, who was the son of Samy Naicker. The properties of Samy Naicker remain undivided. Therefore, every legal heir of Samy Naicker would have a right to the properties left behind by him. That being the situation, the 1st respondent Dhanasekar, who is the son of Mariammal, grandson of Manickavel Naicker and great grandson of Samy Naicker would be a proper and necessary party to the proceedings. He is very much interested in the controversy involved in the suit.

6. Mr.R.Krishnasamy, would plead that in case, the proposed party, the 1st respondent files a written statement, the petitioners should be entitled to file a reply to the same. He is under law entitled to file a reply statement to any written statement that is taken including questioning the ancestry of the 1st respondent.

7. At the time of trial, the Court will frame issues with respect to the ancestry of the 1st respondent and it is the duty of the 1st respondent to prove that he is a legal heir and descendant of Samy Naicker.



CRP(PD)No.448

8. I do not find any reasons to interfere with the order passed by the learned XV Assistant Judge, City Civil Court, Chennai, dated 23.10.2017, in I.A.No.3507 of 2017 in O.S.No.4092 of 2014. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

18.07.2023
(2/2)

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

kj

To
XV Assistant Judge, City Civil Court, Chennai.



WEB COPY



CRP(PD)No.448

V.LAKSHMINARAYANAN,J.

Kj

C.R.P.(PD)No.4487 of 2017
and C.M.P.No.21180 of 2017

18.07.2023
(2/2)