



C.R.P(MD)Nos.248 to 250 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.06.2023

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)Nos.248 to 250 of 2023

and

C.M.P(MD)No.1174 of 2023

C.R.P(MD)No.248 of 2023

Sethuammal

...Petitioner/2nd Petitioner/
2nd Defendant

Vs.

1.Muthu

...1st Respondent/Respondent/
Plaintiff

2.Petchiammal

..2nd Respondent/1st Petitioner/
1st Defendant

3.Valli

..3rd Respondent/3rd Petitioner/
3rd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 06.12.2022 made in I.A.No.2 of 2022 in O.S.No.13 of 2016 on the file of the learned Additional District Munsif, Aruppukottai.

For Petitioner : Mr.V.Sasikumar

For R1 : Mr.S.Parthasarathy



C.R.P(MD)Nos.248 to 250 of 2023

C.R.P(MD)No.249 of 2023

Sethuammal

...Petitioner/2nd Petitioner/
2nd Defendant

Vs.

1.Muthu

...1st Respondent/Respondent/
Plaintiff

2.Petchiammal

..2nd Respondent/1st Petitioner/
1st Defendant

3.Valli

..3rd Respondent/3rd Petitioner/
3rd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order, dated 06.12.2022 made in I.A.No.3 of 2022 in O.S.No.13 of 2016 on the file of the learned Additional District Munsif, Aruppukottai.

For Petitioner : Mr.V.Sasikumar

For R1 : Mr.S.Parthasarathy

C.R.P(MD)No.250 of 2023

Sethuammal

...Petitioner/2nd Petitioner/
2nd Defendant

Vs.

1.Muthu

...1st Respondent/Respondent/
Plaintiff

2.Petchiammal

..2nd Respondent/1st Petitioner/
1st Defendant



C.R.P(MD)Nos.248 to 250 of 2023

3.Valli

..3rd Respondent/3rd Petitioner/
3rd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 06.12.2022 made in I.A.No.4 of 2022 in O.S.No.13 of 2016 on the file of the learned Additional District Munsif, Aruppukottai.

For Petitioner : Mr.V.Sasikumar

For R1 : Mr.S.Parthasarathy

COMMON ORDER

The present Civil Revision Petitions have been filed against the fair and decreetal order, dated 06.12.2022 made in I.A.No.2, 3 and 4 of 2022 in O.S.No.13 of 2016 on the file of the learned Additional District Munsif, Aruppukottai.

2. The petitioner herein is the second defendant in O.S.No.13 of 2016 on the file of the Additional District Munsif Court, Aruppukottai. The suit has been filed by the first respondent herein to declare the rights over the property on the strength of the Will allegedly executed by the father of the petitioner, respondents 1 and 3 and the husband of the second respondent, namely, Velu Thevar on 04.02.2014.



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3. In the said suit, the trial has also commenced. It appears that on behalf of the first respondent/plaintiff, four witnesses have been examined and thereafter, on behalf of the petitioner, the petitioner's husband, namely, Gurusamy was examined as P.W.1 and thereafter, arguments have also been advanced.

4. On 27.09.2022, the petitioner herein who is the second defendant in the above suit filed I.A.Nos.2, 3 and 4 of 2022 to recall P.W.1, namely, the first respondent, to reopen the evidence of the plaintiff and to receive additional written statement under Order 8 Rule 9 of C.P.C.

5. It appears that a parallel proceeding is also pending on behalf of the brother of late.Velu Thevar, namely, Mani Thevar in O.S.No.207 of 2021. The property in question which was also the subject matter of the allegedly Will dated 04.12.2014 measuring an extent of 10 acres 80 cents has been declared by the Government as கண்மாய் நீர்ப்பிடி, namely, water body and therefore, the said Mani Thevar has filed the suit for declaration that the classification of the aforesaid land as கண்மாய் நீர்ப்பிடி is incorrect.



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6. It also appears that the petitioner has filed O.S.No.7 of 2022 to partition the property which was in the name of her father, late.Velu Thevar, wherein, the first respondent herein is also the defendant. No proper reasons have been given in the affidavit. Therefore, the application has been rejected by the Court.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the first respondent and perused the records.

8. This court is of the view that the application filed by the petitioner at the stage after when the case was listed for arguments of the petitioner was highly improper. However, the fact remains that the trial in two collateral proceedings in O.S.No.207 of 2021 at the behest of Mani Thevar, brother of Velu Thevar against the Government and suit in O.S.No.7 of 2022 is in progress. O.S.No.7 of 2022 is a comprehensive suit, wherein, the petitioner has prayed to partition of the suit schedule property of late.Velu Thevar.



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9. Therefore, the Court is of the view that all the three suits should be disposed of together by Sub Court, Aruppukottai. Since, the evidence that has been already recorded in O.S.No.13 of 2016, they shall not to be disturbed. It is open for the petitioner to let in evidence to declare Will dated 04.02.2014 was fabricated and not binding on the petitioner and other legal heirs of late.Velu Thevar, who are the parties to the proceedings. The Sub Court, Aruppukottai shall dispose of the suits in O.S.Nos.13 of 2016, 207 of 2021 and 7 of 2022 as expeditiously as possible preferably within a period of 18 months from the date of receipt of copy of this order.

10. The present Civil Revision Petitions stand dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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- 1.The Additional District Munsif,
Aruppukottai.
- 2.The Sub Court,
Aurppukottai.
- 3.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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