



C.R.P(MD).No.256of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.256 of 2023

and

C.M.P(MD).No.1196 of 2023

P.S.Sasikumar ... Petitioner/Proposed 10th Respondent/
3rd Party

Vs.

1.A.Amutha Alias Mahalakshmi ... 1st Respondent/1st Defendant/Plaintiff

R.Seethammal(Died)

2.Kalavathi

3.Raja @ Elango

4.R.Suresh

... Respondents 2 to 4/Respondents 2 to 4/
Defendants 2 to 4

K.Gurumoorthy(Died)

5.K.Murugan

6.K.Jeyakodi

7.G.Pandiyammal @ Alagammal

8.Minor Jeyasudha

... Respondents 5 to 8/Defendants 6 to 9/
Defendants 6 to 9

(8th respondent is represented by her mother, next guardian of 7th
Respondent)

PRAYER:- This Civil Revision Petition has been filed under Section 115 of CPC, to set aside the order in I.A. No. Unnumbered of 2022 in OS No. 46 of 2010 on the file of 1st Additional District Court, Madurai.

For petitioner : Mr.S.Ramsundarvijayraj



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ORDER

WEB COPY This Civil Revision Petition has been filed by the petitioner to set aside the order made in unnumbered I.A.No..... of 2022 in OS.No. 46 of 2010 on the file of 1st Additional District Court, Madurai.

2.The petitioner wanted to implead himself as a defendant in O.S.No. 46 of 2010 filed by the first respondent. The petitioner claims right under a registered Will, dated 17.02.2022, allegedly executed by the first defendant. After execution of the Will, the first defendant died on 26.07.2022.

3.Under these circumstances, the petitioner has filed the above Interlocutory Application under Order 1 Rule 10 of CPC. The above suit was filed for partition of the suit schedule property, wherein a preliminary decree was passed on 07.01.2020.

4.The learned counsel for the petitioner submits that the petitioner has interest in the property in the light of the registered Will dated 17.02.2022 executed by the first defendant. It is submitted that the registered Will dated 17.02.2022, came into force from 26.07.2022 on account of death of the first defendant and therefore, the petitioner is entitled to impleade himself as a party in the above partition suit.



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5.I have considered the argument advanced by the learned counsel for the petitioner.

6.The submission of the petitioner appears to be reasonable. To that extent, the petitioner is entitled to be heard in the application filed under Order 1 Rule 10 of CPC. Therefore, there shall be a direction to the I Additional District Court, Madurai to number the Interlocutory Application filed by the petitioner and dispose the same in accordance with law.

7.With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

26.04.2023

NCC : Yes/No

Index : Yes/No

Internet:Yes/No

dss

Note : The Registry is directed to return the original copy of the unnumbered IA to the petitioner for submitting before the Court.

To

1.1st Additional District Court,
Madurai.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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