



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2023

CORAM

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**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.779 of 2022

and

C.M.P(MD)No.3128 of 2022

Babi @ Mythili

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

Vs.

1.Muthulakshmi

...1st Respondent/Petitioner/
1st Plaintiff

2.Manokaran

3.Chandrasekar

4.Balasaraswathi

5.Kutti @ Kanthasamy

6.Vasanthi

7.Uma

8.Sundara Rasamani

9.Saraswathi Ammal

10.Kalaiselvi

11.Ganesan

12.Kalpanadevi

13.Murugesan

14.Moganasundaram

15.Jeyachitra

16.K.Hari Vignesh

(R15 & R16 are impleaded vide
Court order dated 25.07.2023)

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.11.2021 made in I.A.No.29 of 2021 in O.S.No.46 of 2005 on the file of the learned Fast Track Mahila Court, Dindigul, and allow the civil revision petition.



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For Petitioner	:Mr.N.Mohan
For R1	:Mr.M.Karthikeya Venkatachalapathy
For R4, R15&R16	:Mr.A.Prasanna Rajadurai.

ORDER

This civil revision petition is preferred as against fair and decreetal order, dated 30.11.2021 made in I.A.No.29 of 2021 in O.S.No.46 of 2005 on the file of the learned Fast Track Mahila Court Judge, Dindigul.

2.According to the revision petitioner, the first respondent is the plaintiff and the petitioner as second plaintiff filed a suit in O.S.No.46 of 2005, before the Fast Track Mahila Court, Dindigul, for partition of suit properties.

3.During the pendency of the suit, the first plaintiff filed an application in I.A.No.29 of 2021, to transpose the second plaintiff as 17th defendant in the original suit. The said application was resisted by the petitioner/second plaintiff.

4.The trial Court, after considering the averments made in the petition and in the counter affidavit and the arguments advanced by the respective counsel, allowed the application. Against which, the present Civil Revision Petition is filed.



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5.The learned counsel appearing for the petitioner would submit that the petitioner is the second plaintiff in the suit in O.S.No.46 of 2005. While so, the first respondent/first plaintiff filed a petition to transpose the petitioner as 17th defendant in the suit. The said petition was allowed by the trial Court and in pursuant to that order, the petitioner/second plaintiff was transposed as 21st defendant in the suit. Aggrieved by the same, the petitioner has preferred the present civil revision petition.

6.On the other hand, the learned counsel appearing for the respondent/first plaintiff would submit that the first respondent/first plaintiff along with the petitioner/second plaintiff have filed the above suit in O.S.No.46 of 2005 for partition of suit properties. Since the first respondent/first plaintiff was aged about 85 years old, he had instructed the petitioner/second plaintiff to conduct the suit and give information with regard to the further proceedings in the suit. Thereafter, the first respondent/first plaintiff came to know that the petitioner/second plaintiff caused unnecessary delay in the suit proceedings on receipt of money received from the third parties. He would further submit that the first respondent/first plaintiff apprehends that if the suit has been filed along with the petitioner/second plaintiff, great hardship will be caused to him. In the above partition suit, the petitioner and the first respondent jointly prayed for



2/9th share in the suit properties. Therefore, even if the petitioner/second plaintiff has been transposed as 17th defendant, no prejudice would be caused to him.

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7.On the side of the revision petitioner, neither in the revision petition nor during the course of arguments has stated any specific reason about the prejudice caused to him, if he is transposed as one of the defendants in the suit. Since it is a suit for partition, no prejudice would be caused to the revision petitioner by transposing him as defendant in the suit. Therefore, there is no infirmity or irregularity in the order passed by the Court below. Hence, this Civil Revision Petition is dismissed. No costs.

8.However, considering the facts that the suit is of the year 2005, this Court directs the Fast Track Mahila Court, Dindigul, to dispose the matter on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

31.07.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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Note:Issue order copy on 03.08.2023



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K.GOVINDARAJAN THILAKAVADI, J.

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To

1.The Fast Track Mahila Court,
Dindigul

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

C.R.P(MD)No.779 of 2022
and
C.M.P(MD)No.3128 of 2022

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