



CRP(PD)(MD)No.742 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.742 of 2022

and

CMP(MD).No.2996 of 2022

1.Vijayaragunathan

2.Umarani

... Petitioners

Vs

Mohan

S/o.Palanivel

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, to call for the records in Fair and Decreetal order dated 08.10.2021 passed in I.A.No.2 of 2021 in O.S.No.100 of 2015 by the Additional District Munsif Court, Aruppukottai and set aside the same.

For Petitioner : Mr.A.Srinivasan

For Respondent : Mr.L.Prabhu



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ORDER

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This Civil Revision Petition has been filed as against the fair and Decreetal order dated 08.10.2021 passed in I.A.No.2 of 2021 in O.S.No. 100 of 2015 by the Additional District Munsif Court, Aruppukottai. The suit in O.S.No.100 of 2015 was filed by the respondent/plaintiff for the relief of declaration and for permanent injunction along with recovery of possession as against the first petitioner. Admittedly, the plaintiff and the defendant are brothers. The plaintiff/respondent claims that the suit schedule property has been purchased out of his self earned income and the case is at the stage of recording the evidence.

2.The first petitioner/ defendant has filed I.A.No.2 of 2021 under Order 1 Rule 10(2) and Section 151 of Civil Procedure Code, to implead one Umarani as second defendant in the suit, who is none other than the sister of the plaintiff and defendant. The trial Court dismissed the application, stating that the proposed party was already examined as D.W.2 in the above said suit and therefore, she need not be a party to the



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suit proceedings. Aggrieved over the same, the present revision petition has been filed.

3.This Court considered the rival submissions made and also perused the materials available on record.

4.The respondent claims the suit property to be his self acquired property where as the first petitioner claims it to be a joint family property. This being the issue here, if the property was found to be a joint family property, the second respondent might become entitled to it. Hence, for proper adjudication of these questions in the suit, the second respondent can be impleaded as a party.

5. Hence, this Court is inclined to set aside the order dated 08.10.2021 passed in I.A.No.2 of 2021 in O.S.No.100 of 2015 by the Additional District Munsif Court, Aruppukottai. Considering the fact that the suit is of the year 2015, the trial Court is directed to dispose



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O.S.No.100 of 2015, within a period of five months from the date of receipt of a copy of this order.

With the above directions, this Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed.

09.01.2023

Index : Yes / No.
Internet : Yes / No.
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To

Additional District Munsif Court,
Aruppukottai.



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B.PUGALENDHI, J.

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Order made in
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09.01.2023