



C.R.P(MD)No.1168 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **28.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1168 of 2023

and

C.M.P(MD)No.5636 of 2023

S.Jothi

... Revision Petitioner/12th Respondent/
12th Defendant

Vs.

1.N.Karuppaih (Died)

2.N.Ramasamy

3.Karuppayammal

4.K.Rengasubramanian

5.K. Velmurugan

6.K.Moorthi

7.K.Muthulakshmi

8.K.Alaguthayyammal

9.K.Kanagalakshmi

10.K.Ayyammal

...1 to 10 Respondents/1 to 10 Petitioners/
1 to 10 Plaintiffs

11.M.Karuppaiah



C.R.P(MD)No.1168 of 2023

12.M.Ayyanar

13.M.Dhandapani

14.M.Senthil

15.M.Vellimalai

16.M.Subbulakshmi

17.K.Nallammal

18.Chinnamani

19.Senthilkumar

20.Renuga

21.Sathya

22.The District Collector,
Dindigul Collector Office,
Dindigul-13.

23.The Thasildar,
Dindigul Taluk Office,
Dindigul Taluk,
Dindigul District.

... 11 to 23 Respondents/
1 to 11, 13 & 14 Respondents/
1 to 11, 13 & 14 Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the Fair and Decretal order passed in I.A.No.6 of 2022 in O.S No.90 of 2013 dated 13.10.2022 on the file of the learned Additional Subordinate Judge, Dindigul, Dindigul District and set aside the same.



WEB COPY



C.R.P(MD)No.1168 of 2023

For Petitioner : Mr.S.Sarvagan Prabhu

For R-22 & R-23 : Mr.S.Kameswaran
Government Advocate

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order passed in I.A.No.6 of 2022 in O.S No.90 of 2013 dated 13.10.2022 on the file of the learned Additional Subordinate Judge, Dindigul, Dindigul District.

2. The petitioner is the 12th defendant in O.S.No.90 of 2013 before the learned Additional Subordinate Judge, Dindigul, Dindigul District filed by the respondents 1 to 10 against the 14 defendants.

3. It is the specific case of the petitioner that the defendants 8 to 11 therein have executed a sale deed in favour of the petitioner on 08.02.2013. The petitioner has also filed a written statement on 06.04.2013. It is also submitted that the suit has been filed by the plaintiff and the respondents, who are the defendants other than the official respondents as a collusive suit to defeat the rights of the



C.R.P(MD)No.1168 of 2023

petitioner under the sale deed, dated 08.02.2013. It is submitted that long after the filing of the written statement, the plaintiffs, who are the respondents 1 to 10 herein filed I.A.No.6 of 2022 on 05.04.2022 to amend the relief from the prayer for partition of the suit schedule property to declare the sale deed, dated 08.02.2013 as null and void. The learned Additional Subordinate Judge, Dindigul, Dindigul District allowed the said application with the following observations:

"9. Now this court on perusing the entire case records finds that the plaintiffs have come forward this petition to amend the plaint in respect of the relief of declaration that they are the 2nd class legal heirs of late Nalluswamy as well as the declare that the sale deed execute by the defendants 8 to 11 in favour of the 12th defendant is null and void. Further the plaintiffs claimed the right title and share over the property as they are heirs of above said A. Nalluswamy Maniam. They also specifically stated their rights of the defendant 1 to 7 in the suit schedule property as they also heirs of above said A. Nalluswamy maniam Hence the plaintiffs claimed right and 2/9 share for them and the remaining share as to go to the respondents 1 to 7 and further the plaintiffs have specifically stated that the 8" defendant has no right over the property since she is not the wife of above said A. Nalluswamy and by misrepresenting the revenue officials obtained a legal heirship certificate as if she is wife of late.A.Nalluswamy Maniam and the defendants 9 to 11 are his children since the the government has cancelled the legal heirship certificate issued of the 8 defendant.

10. Considering the above said facts this court feels the not praying for specific declaration as well as the specific share can be condoned even without the specific prayer claimed by the petitioners in this petition. The suit can be adjudicated. Hence for the convenience of the both parties and for specific disposal



C.R.P(MD)No.1168 of 2023

WEB COPY

of the suit. The petition can be allowed. Since the suit is pending from 2013 and now posted for the judgment this court feels the petition has to be allowed with cost.

11. Finally, this petition will be allowed on payment of cost of Rs.2500/- payable to the 12th respondent/12th defendant on or before 26.10.2022. Failing which this petition stands dismissed. Call on 27.10.2022."

4. In my view, there is no merit in the challenge to the impugned order. The amendment does not alter the characteristics of the dispute. It only supplements the prayer that was originally sought for partition of the suit schedule property.

5. Considering the above, the learned Additional Subordinate Judge, Dindigul, Dindigul District shall expedite the trial in O.S.No.90 of 2013 and frame additional issue if required regarding the limitation as to whether the relief sought for pursuant to the amendment would be within the limitation or beyond the period of limitation. The learned Additional Subordinate Judge, Dindigul, Dindigul District shall dispose of the suit in O.S.No.90 of 2013 as expeditiously as possible preferably within a period of 6 months from the date of receipt of copy of this order.



C.R.P(MD)No.1168 of 2023

WEB COPY

6. The present Civil Revision Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

sn

To

1.The Additional Subordinate Judge,
Dindigul,
Dindigul District.

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



WEB COPY



C.R.P(MD)No.1168 of 2023

C.SARAVANAN,J.

SN

C.R.P(MD)No.1168 of 2023

28.04.2023