



CRP (MD) No.1334 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	08.08.2023
Pronounced on	13.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

CRP (MD) No.1334 of 2022
and
CMP(MD)No.5510 of 2022

Ravikumar

... Petitioner

Vs.

1.Gengammal

2. Mahalakshmi

3. Usharani

4. Vijayarani

5.Guruvammal

... Respondents

PRAYER: Civil Revision Petition filed under Section 151 of the Civil Procedure Code, to set aside the order passed in I.A.No.445 of 2021 in O.S.No.90 of 2012 on the file of the Sub Court, Kovilpatti, dated 05.04.2022.

For Petitioner : M/s.T.Lenin Kumar

For R1 & R2 : Mr.F.X.Eugene

For R3 to R6 : No appearance



CRP (MD) No.1334 of 2022

ORDER

WEB COPY

This petition is preferred against the order passed in I.A.No.445/ 2021 in O.S.No.90 of 2012 on the file of the Sub Court, Kovilpatti, dated 05.04.2022.

2. The above suit in O.S.No.90 of 2012 was filed by the petitioner as plaintiff for partition and to allot 1/9th share to the plaintiff. During the pendency of the above suit, the defendants 4 and 5 filed an application in I.A.No.445 of 2021 in O.S.No.90 of 2012 for receiving additional written statement for their share in the suit property under Order 8 Rule 9 CPC. The said application was allowed by the trial Court against which the present revision is preferred.

3. According to the learned counsel for the petitioner, when the case was posted for examination of D.W.1 and D.W.2 by the respondents 1 and 2 they have come forward with an application in I.A.No.445 of 2021 to receive additional written statement to fill up the lacuna. When a specific stand was



taken by the petitioner that his father the 1st defendant executed a settlement deed, the respondents 1 and 2 and 5 & 6 without examining D.W.1 to D.W.5 filed the application to fill up the lacuna. The trial Court without considering the objection raised by the petitioner in the counter statement, erroneously allowed the application which was filed after a delay of 10 years. He would further submit that the respondents have not cross examined D.W.1 & D.W.2 inspite of several adjournments and the case is posted for defendants side further evidence. Therefore, the reception of additional written statement after commencement of trial cannot be accepted. Hence, the order passed by the trial Court is liable to be set aside.

4. On the other hand, the learned counsel appearing for the respondents/defendants 6 & 7 would content that it is a suit for partition and the respondents are the legal heirs of one Aadhilakshmi who died on 26.05.1996. The suit properties are in joint possession of the plaintiffs and defendants 2 to 7 and therefore, the petitioners are entitled to 18/54 share in the suit properties. The trial Court after considering the above facts rightly allowed the application filed by the respondents.



CRP (MD) No.1334 of 2022

5. Heard on both sides and records perused.

WEB COPY

6. It is a suit for partition and now posted for defendant side further evidence. The respondents who are the defendants 6 & 7 in the suit have come out with an application to receive the additional written statement along with Court fee in respect of their share in the suit properties. In a suit for partition, all parties who are entitled for a share in the properties are necessary parties. Whether, the respondents are entitled for any share in the suit properties, to be decided at the time of trial. Moreover, it is settled law that in a suit for partition the defendants are also deemed to be plaintiff. Therefore, receiving the additional written statement along with Court fee not cause any prejudice to the respondents. Hence, the trial Court has rightly allowed the application which calls for no interference.

7. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2023

NCC : Yes/No

Index : Yes/No

4 / 6



CRP (MD) No.1334 of 2022

Internet : Yes
cp/vsn

WEB COPY

To

The Subordinate Judge,
Kovilpatti.



WEB COPY



CRP (MD) No.1334 of 2022

K.GOVINDARAJAN THILAKAVADI

cp/vsn

order made in
C.R.P(MD)No.1334 of 2022
and C.M.P.No.5510 of 2022

13.12.2023