



C.R.P(MD)No.1541 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.06.2023**

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1541 of 2023

and

C.M.P(MD)No.7587 of 2023

Sivasankarasubbulakshmi

...Petitioner/1st Respondent/
1st Defendant

Vs.

1.Vallimeenal

Ayeesha Begam @ Sankara Gomathi (Died)

2.Mohamed Masir Alikhan

3.Nathik Ali Ahamed

4.Ariba Barkath

...Respondents 1 to 5/
Petitioners/1st Plaintiff
and Proposed Plaintiffs 3 to 5

5.Sivaraman

6.Navaneethakrishnan

7.Subbulakhmi

8.Uma Maheswari

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



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.7 of 2021 in O.S.No.79 of 2018 dated 12.12.2022 on the file of the learned III Additional District Judge, Tirunelveli.

For Petitioner : Mr.T.Selvan

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order dated 12.12.2022 passed by the learned III Additional District Judge, Tirunelveli in I.A.No.7 of 2021 in O.S.No.79 of 2018.

2. The petitioner is the first defendant before the III Additional District Court, Tirunelveli in O.S.No.79 of 2018. The suit was filed by the first respondent and by her sister, namely, Ayesha Begam (formerly Sankara Gomathi).

3. It is the specific case of the petitioner that the legal heirs of said Ayesha Begam are not entitled to any share in the property in view of Section 26 of the Hindu Succession Act, 1956. It is further submitted that the Court below has committed a grave error in impleading the legal



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heirs of the deceased Ayesha Begam. On a query as to when the rights of the plaintiff crystallized there is no answer. Although it is informed that the mother died in the year 1973 and the father died in the year 1996.

4. The matter requires further consideration by the Trial Court. Therefore, I do not find any merits in the present Civil Revision Petition. The present Civil Revision Petition is liable to be dismissed and accordingly, dismissed. However, the rights of the petitioner to raise all objections under Section 26 of the Hindu Succession Act, 1956 stand preserved at the time of final disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2023

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

1.The learned III Additional District Judge,
Tirunelveli.

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



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C.SARAVANAN,J.

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