



C.R.P(MD)No.1361 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1361 of 2023

and

C.M.P(MD)No.6766 of 2023

1.Vijayalakshmi

2.Padma

3.Gobi Kannan

4.Saroja

...Petitioners/Respondents 1 to 4/
Defendants 1 to 4

Vs.

1.Annathai @ Annathayammal

...1st Respondent/Petitioner/
Plaintiff

2.The Tahsildar,
Aruppukottai,
Pandalkudi Road,
Aruppukottai,
Virudhunagar District.

...2nd Respondent/5th Respondent/
5th Defendant

3.Devaki

4.Ponmalar

5.Anandhan

6.Latha



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7.Kannan

8.Rajan

...Respondents 3 to 8/
Respondents 6 to 11/
Proposed Defendants 6 to 11

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside fair and decreetal order passed by the Additional District Judge, Virudhunagar in I.A.No.135 of 2022 in O.S.No.40 of 2021 (CF No.1 of 2022) dated 24.04.2023.

For Petitioner : Mr.S.V.Nagarajan

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order passed by the learned Additional District Judge, Virudhunagar in I.A.No.135 of 2022 in O.S.No.40 of 2021 (CF No.1 of 2022) dated 24.04.2023.

2. The petitioners are the defendants 1 to 4 in O.S.No.40 of 2021 (C.F.No.1 of 2022) on the file of the Additional District Court, Virudhunagar. The suit has been filed by the first respondent herein for partition of the suit schedule property claiming herself to be the wife of late.Kili Naicker @ Chinaa Alagarsamy Naicker. In other words, the suit



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has been filed by the first respondent claiming to be wife of late.Kili Naicker @ Chinaa Alagarsamy Naicker, father of the petitioners 1 to 3 herein.

3. In the suit, the first respondent filed I.A.No.135 of 2022 under Order 1 Rule 10 (2) of C.P.C for impleading the respondents 3 to 8 as defendants 6 to 11. The Additional District Court, Virudhunagar has allowed the application filed by the first respondent with the following observations:

7.Point:

This petitioner is the plaintiff in the suit. She filed the suit for partition of her share in the scheduled property. In the written statement filed on 26.03.2019 the respondents 1 to 4 contended that the scheduled properties 1 &2 and 9 &17 were sold by their father during his lifetime to one Jeyachandran. Now, the petitioner wants to implead the legal heirs of said Jeyachandran in this suit. The only contention on the side of respondents is that this petition is highly belated one. But, it is seen from the averment that the petitioner/plaintiff filed the suit for partition of their father. It is also seen that during his lifetime, father of parties sold some properties to one Jeyachandran. So, being the purchasers, before filing the suit said Jeyachandran or his legal representatives are necessary in this case. If, they are not implead in the case, suit will be dismissed for non-joinder of necessary parties. So, in the interest of justice, this petition has to be allowed.

8. In the result, this petition is allowed. No order as to costs."



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4. It is the contention of the petitioner that such application was filed to implead the respondents 3 to 8 during the pendency of the suit cannot be countenanced. Several objections have been raised by the petitioner which according to the petitioner were not considered by the Court while passing the impugned order, dated 24.04.2023.

5. The specific case of the petitioner is that the suit Properties Nos.1, 2, 9 and 17 were sold during the life time of late.Kili Naicker @ Chinaa Alagarsamy Naicker. Therefore, impleading of the parties cannot be countenanced.

6. I have considered the arguments advanced by the learned counsel for the petitioner.

7. There is no merit in the present civil revision petition filed by the petitioner. By allowing the application for impleading the respondents 3 to 8 herein as defendants 6 to 11 there is no determination of *inter-se* rights of the parties hereto.



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8. Therefore, the present Civil Revision Petition is liable to be dismissed and accordingly, it stands dismissed. The Additional District Court, Virudhunagar shall endeavour to dispose of the suit in O.S.No.40 of 2021 as expeditiously as possible preferably within a period of 15 months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2023

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

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To

- 1.The learned Additional District Judge,
Virudhunagar.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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