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C.R.P(MD)No.2042 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.2042 of 2023
and
C.M.P(MD)No.10257 of 2023

1.Mathumanohar @ Innasi
2.Gokulrav
3.Pradeeshrav
4.Lokesh Kumar

... Petitioners/Respondents 1to4
/Defendants 1to4

Vs.

1.Rajammal
2.Karpagarm
3.Sankar

...Respondents 1&2/Petitioners/
Plaintiffs
...3rd Respondent/5th Respondent
/5th Defendant

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.5 of 2022 in O.S.No.68 of 2012 dated 17.04.2023 on the file of the Sub-Court, Sankarankovil by allowing this Civil Revision Petition.

For Petitioners

:Mr.H.Arumugam

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order dated 17.04.2023 passed in I.A.No.5 of 2022 in O.S.No.68 of 2012 by the Sub-Court, Sankarankovil.



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2. According to the revision petitioners/defendants 1 to 4, the respondents 1 and 2/plaintiffs filed the above suit in O.S.No.68 of 2012 before the Sub-Court, Sankarankovil, for partition. During the pendency of the suit, the respondents 1&2/plaintiffs filed an application in I.A.No.5 of 2022 for amendment to include the proposed items 9 to 12 in the schedule of properties in the suit. The said application was allowed by the trial Court on payment of cost of Rs.5,000/-to be paid by the respondents 1&2/plaintiffs to the revision petitioners/defendants. Challenging the same, the present civil revision petition is filed.

3. The learned counsel appearing for the petitioners would submit that the application in I.A.No.5 of 2022 was filed after a lapse of 10 years and the same is barred by limitation. Since it is a suit for partition of the properties belonging to the family, the properties ought to have been included in the plaint at the first instance.

4. The claim of the respondents/plaintiffs is that inadvertently the proposed properties are not mentioned in the plaint, at the first instance.

5. Considering the above submission and also considering the fact that it is a suit for partition no prejudice would be caused to the other side by



including the above properties in the schedule of properties to avoid multiplicity of proceedings and to have a fair adjudication. Therefore, no infirmity found in the order passed by the Court below.

6.Accordingly, this civil revision petition is dismissed. However, petitioners are at liberty to put forth their defence and also to cross-examine the witness with regard to the fact that whether the properties mentioned in the petition is available for partition. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

To

1.The District Munsif Court,
Thiruvaiyaru,
Thanjavur District.

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



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K.GOVINDARAJAN THILAKAVADI, J.

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