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CRP(MD).Nos.1909 and 1910 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).Nos.1909 and 1910 of 2022

and

C.M.P(MD).No.8637 of 2022

C.R.P(MD).No.1909 of 2022

- 1.Chidambaram
- 2.Venkatachalapathy
- 3.Ravikumar
- 4.Masoodhu Beevi
- 5.Shahul Hameed
- 6.Petchiyammal
- 7.Selvi
- 8.Petchiyammal
- 9.Kannagi
- 10.Shanmugapriya
- 11.Sathyakumari
- 12.Sambathsingh

..Petitioners/Petitioners/Petitioners/Defendants 1 to 3 & 5 to 13

Vs.

- 1.Valliyammal
- 2.Ajitha
- 3.Ganesh

... Respondents 1 to 3/Respondents 1 to

3/Proposed respondents 2 to 4/proposed plaintiffs 2 to 4

Shanmugam (died)
through his power agents

- 1.Ganesh
- 2.Sugadev

.. Respondent/Plaintiff

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order 22.07.2022 passed in I.A.No.5 of 2021 in I.A.No.4 of 2020 in O.S.No.23 of 2020 on the file of the learned Subordinate Court, Sankarankovil.



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CRP(MD).NOs.1909 and 1910 of 2022



For Petitioners : Mr.M.P.Senthil
For Respondents : Mr.S.Meenakshisundram
Senior Counsel for
Mr.M.Sengu Vijay (for R1 to R3)

C.R.P(MD).No.1910 of 2022

- 1.Chidambaram
- 2.Venkatachalapathy
- 3.Ravikumar
- 4.Masoodhu Beevi
- 5.Shahul Hameed
- 6.Petchiyammal
- 7.Selvi
- 8.Petchiyammal
- 9.Kannagi
- 10.Shanmugapriya
- 11.Sathyakumari
- 12.Sambathsingh

..Petitioners/Petitioners 1 to 3 & 5 to 13/
Defendants 1 to 3 & 5 to 13

Vs.

Shanmugam (died)
through his power agents

- 1.Ganesh, 2.Sugadev

.. Plaintiff

- 1.Ganesh
- 2.Bagathsingh
- 3.Sugadev
- 4.Rajaguru

... Respondents 1 to 4/Respondents 1 to 4
/Proposed plaintiffs 2 to 5

- 5.Purushothaman
- ... 5th Respondent/4th Respondent/4th Defendant

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order 22.07.2022 passed in I.A.No.6 of 2022 in O.S.No.23 of 2020 on the file of the learned Subordinate Court, Sankarankovil.

For Petitioners : Mr.M.P.Senthil
For Respondents : Mr.S.Meenakshisundram
Senior Counsel for
Mr.M.Sengu Vijay (for R1 to R4)



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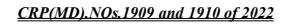


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COMMON ORDER

O.S.No.23 of 2020 was filed for the relief of permanent injunction and for declaration that the sale deed dated 05.09.2005 and 04.07.2014 are null and void. The plaintiff had further prayed that the settlement deed dated 31.01.2018 is null and void and for other consequential relief. The defendants had filed I.A.No.4 of 2020 under Order 7 Rule 11 of the Code of Civil Procedure to reject the plaint. While the said application was pending, the plaintiff had passed away and some of the legal heirs of the plaintiff had filed I.A.No.6 of 2022 to get themselves impleaded as legal heirs of the plaintiff on the basis of Will said to have been executed by the plaintiff on 20.11.2020. The said application in I.A.No.6 of 2022 was allowed.

2. In the meantime, the defendants had filed I.A.No.5 of 2021 to implead the legal heirs, who were not beneficiaries in the said Will, in order to secure their rights. I.A.No.5 of 2021 filed by the defendants was dismissed by the trial Court on the ground that the plaintiff is the dominus litis and hence, the defendants have no *locus standi* to contend that who should represent the plaintiff. The order passed in I.A.No.6 of 2022 and I.A.No.5 of 2021 are under challenge in the revision petitions.



4. Per contra, the learned Senior Counsel appearing for the defendants has contended that the defendants are not the family of the plaintiff and hence, they have no *locus standi* to question the validity or genuineness of the Will dated 20.11.2020. That apart, the legal heirs were shown as parties in I.A.No.5 of 2021. Though they appeared through their counsel, they have not chosen to challenge the order passed in I.A.No.5 of 2021. It clearly establishes that the legal heirs, who were impleaded in I.A.No.6 of 2020, have been shown to be proper legal representatives of the deceased plaintiff. In view of the matter, he contended that the defendants, who are third parties to the suit, cannot have any objection to the legal heirs of the



5. I have carefully considered the submissions made on either

6. The present revision petitions have been filed based on a misapprehension that the left out legal heirs of the plaintiff are likely to challenge an order to be passed in I.A.No.4 of 2020. The left out legal heirs of the deceased plaintiff were shown as proposed parties in I.A.No. 5 of 2021 and they have not chosen to challenge the dismissal of the said impleading application. Therefore, the apprehension on the part of the defendants that on a future date, the left out legal heirs are likely to challenge an order that is to be passed in I.A.No.4 of 2020 is unfounded and therefore, the present Civil Revision Petitions are not maintainable and they are dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

15.02.2023

Index : Yes / No

Internet : Yes / No

Rmk

To

1. The Subordinate Judge, Sankarankovil.



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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
CRP(MD).Nos.1909 and 1910 of 2022

Dated:
15.02.2023