



C.R.P(MD)Nos.2267 and 2268 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 05.07.2023

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THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)Nos.2267 and 2268 of 2017

and

C.M.P(MD)No.11030 of 2017

C.R.P(MD)No.2267 of 2017

N.Thayasowmni

...Petitioner/Petitioner/
Plaintiff

Vs.

1.S.Ariramakrishnan

2.M.Navarethinamony

3.Sherma Sureka (Minor)

4.Anu Nerthika (Minor)

5.Arunsuhash (Minor)

...Respondents/Respondents/
Defendants

*(The respondents 3 to 5 are minor,
represented by their natural guardian
and next friend their mother namely
Rajathi @ Anna Vadivoo)*

PRAYER: 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.522 of 2015 in O.S.No.76 of 2015 dated 08.12.2016 on the file of the Principal Sub Court, Nagercoil.



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C.R.P(MD)Nos.2267 and 2268 of 2017

For Petitioner : Mr.H.Arumugam

For R1 : Mr.K.P.Narayanakumar

C.R.P(MD)No.2268 of 2017

N.Thayasowmni

...Petitioner/Petitioner/
Plaintiff

Vs.

1.S.Ariramakrishnan

2.M.Navarethinamony

3.Sherma Sureka (Minor)

4.Anu Nerthika (Minor)

5.Arunsuhash (Minor)

...Respondents/Respondents/
Defendants

*(The respondents 3 to 5 are minor,
represented by their natural guardian
and next friend their mother namely
Rajathi @ Anna Vadivoo)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.523 of 2015 in O.S.No.76 of 2015 dated 08.12.2016 on the file of the Principal Sub Court, Nagercoil.

For Petitioner : Mr.H.Arumugam

For R1 : Mr.K.P.Narayanakumar



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COMMON ORDER

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CRP(MD)No.2267 of 2017 has been filed against the order passed by the Principal Sub Court, Nagercoil in I.A.No.522 of 2015 in O.S.No. 76 of 2015 dated 08.12.2016 filed under Order 1 Rule 10 of C.P.C.

2. CRP(MD)No.2268 of 2017 has been filed against the order passed by the Principal Sub Court, Nagercoil in I.A.No.523 of 2015 in O.S.No.76 of 2015 dated 08.12.2016 filed under Order 6 Rule 7 of C.P.C.

3. According to the petitioner, the subject matter of the partition suit originally belongs to one late Muthu Nadar, father of the second respondent/second defendant. The proposed parties are the other legal heirs of late Muthu Nadar. Therefore, when the subject matter is in respect of an ancestral property, the other legal heirs of Muthu Nadar, who are the proposed parties needs to be impleaded.

5. The learned counsel for the first respondent objected the application on the ground that the properties of Muthu Nadar have already been partitioned, and the subject matter of the suit is only in



respect of the second respondent/second defendant, who is the divided son of the Muthu Nadar. Therefore, the impleadment of the other legal heirs of Muthu Nadar have no relevance as this suit is only in respect of the property of the divided son. Therefore, they are not proper and necessary parties to the proceedings. The learned Trial Judge has gone into the materials in depth and ultimately dismissed the application.

6. But going through the plaint, this Court did not find any challenge towards the earlier partition and therefore, this Court is of the firm view that in a suit for partition between the heirs of one divided son, the legal heirs of the other divided son are not necessary and proper party. Therefore, the very order passed by the learned Trial Judge in I.A.No.522 of 2015 is legally sound and this Court do not find any ground to interfere with the well reasoned order.

7. The petitioner/plaintiff has also filed an amendment application in I.A.No.523 of 2015 to make an amendment as per the order in I.A.No. 522 of 2015. Now that the dismissal of impleading application is confirmed. Therefore, there is no scope arise for any amendment. Thus, the order passed in the amendment application is also liable to be confirmed.



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8. In the result, these civil revision petitions stand dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

05.07.2023

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

- 1.The learned Principal Sub Judge,
Nagercoil.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

SN

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