



CRP.No.821 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 06.03.2024

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU**

**C.R.P.No.821 of 2022**  
**and C.M.P.No.4135 of 2022**

T.Pandian

... Petitioner/Plaintiff

Thiruneelakandan(died)

Vs.

Manoranjitham (died)

1.P.Manimegalai

2.T.Sakthivel (deaf and dum)

3.P.Arunagirinathan

...Respondents/defendants.

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 16.12.2021 in I.A.No.12 of 2021 in A.S.No.2 of 2016 on the file of 2<sup>nd</sup> Additional District Judge, Tindivanam.

For Petitioner : Mr.N.Saravanakumar

For Respondents : Mr.P.M.Duraisamy for R1 and R3

R2-No appearance.



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## **ORDER**

This Civil Revision Petition has been filed by the revision petitioner/appellant/plaintiff praying to set aside the order dated 16.12.2021 passed in I.A.No.12 of 2021 in A.S.No.2 of 2016 on the file of 2<sup>nd</sup> Additional District Judge, Tindivanam.

2. The learned counsel for the revision petitioner would submit that in A.S.No.2 of 2016, proposed party filed I.A.12 of 2021 for impleading himself as party in the first appeal stating that defendants 1, 2 and 4 had executed a registered will in his favour, and defendants 1 and 2 died further the 4<sup>th</sup> defendant is deaf and dumb. The learned Judge, First Appellate court ordered the impleading petition. The revision petitioner who filed first appeal as against the judgment in O.S.No.111 of 2007, raised the ground that the appellant/plaintiff is also entitled to 1/3 share out of suit items 4 to 8 also. In such circumstances, the proposed party who is claiming ownership for the properties on the strength of Will, cannot be impleaded as party respondent in the first appeal as it cause irreparable loss and mental agony to the appellant/revision petitioner.



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3. The learned counsel for 1<sup>st</sup> and 3<sup>rd</sup> respondent would submit that the learned Judge, after going into the facts of the case and the claim made by the proposed party, impleaded the proposed party and the same would avoid multiplicity of proceedings.

4. Heard both sides and perused the records carefully.

5. The claim of the proposed party is that Will and other documents executed by defendants 1, 2 and 4 has given certain property rights to him, therefore, he sought for impleading in the Appeal Suit filed by the plaintiff.

6. The learned Judge, First Appellate Court, has found that defendants 1, 2 and 4 are said to have registered a Will and other documents giving certain rights to the proposed party and whether the said documents could be accepted or not has to be decided in the first appeal. The learned Judge, also pointed out that defendants 1 and 2 are not alive, 4<sup>th</sup> defendant is deaf and dumb and in such circumstances, it is necessary to implead the proposed party as party respondent in A.S.No.2 of 2016 as the proposed party is claiming that he is the owner of the certain properties as per the said Will.



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7. In order to do justice to the parties and to avoid multiplicity of legal proceedings, the learned Judge, allowed I.A.No.12 of 2021 in A.S.No.2 of 2016. This court do not find any infirmity or illegality in the order impugned. Accordingly, this civil revision petition is dismissed. Interim stay stands vacated. No costs.

**06.03.2024**

Index :Yes/No  
Internet:Yes/No  
nvsri

To

- 1.The 2<sup>nd</sup> Additional District Judge, Tindivanam.
- 2.The Record Keeper, VR.Section, High Court, Madras



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**J. NISHA BANU, J.**

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