



C.R.P.No.2055 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2055 of 2024

Kishtammal (Died),
M.Devadoss,
S/o.A.Masilamani,
Door No:1, Pillayar Koil Street,
Sivapuramedu Village,
Vanagaram,
Chennai – 600 095.
(Impleaded as per order in
I.A.No.2027/2006 dt. 13.02.2007).

... Petitioner

Vs.

Manicka Naicker (Died),
Alamelu Ammal (Died),
Kasi (Died),
1.V.Alai
2.Baby
Kistammal (Died)
3.Damodaran
4.Pachaiyappan
5.Ponni
6.Rani
7.Sampoornan
8.Sundaram
9.Chidambaram
10.Manoharan
11.Kullammal



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12.Lalitha
13.Suseela
14.Vijaya
15.Uma
16.Kumari
17.Selvakumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Additional District Munsif Court at Ambattur to expeditious the trial and dispose of the suit in O.S.No.522 of 2007 within a stipulated period of time prescribed by this Court.

For Petitioner : Mr.J.Ravi Shankar

ORDER

The petitioner/plaintiff has filed this civil revision petition to direct the learned Additional District Munsif, Ambattur to expedite the trial and dispose of the suit in O.S.No.522 of 2007.

2.The learned counsel for the petitioner submits that earlier the petitioner's mother filed suit for partition seeking 1/6 share in the suit property before the learned District Munsif, Poonamallee in O.S.No.742 of 1983. After bifurcation, subsequently the case was transferred to the file of the Additional District Munsif Court, Ambattur and renumbered as O.S.No.522 of 2007. After the death of the petitioner's mother, the



petitioner got impleaded as 2nd plaintiff in the suit *vide* I.A.No.2027 of 2006.

He further submits that the suit kept pending for more than forty years and there is no substantial progress. The protraction of the suit is only beneficial to the defendants. During passage of time, some of the original defendants passed away. At each stage, bringing legal heirs was arduous task and time consumed. Prior to filing of suit, the plaintiff entitled to 1/6 share, caused legal notice demanding portion of the share on 12.07.1982. Thereafter, reply sent with false allegation denying the right of the plaintiff and the defendants claimed adverse possession in respect of the plaintiff's share. The rejoinder sent, thereafter no reply and suit filed. The suit property was never enjoyed by the joint family consists of the plaintiff at any point of time and the defendants are enjoying the property even now.

3.It is further submitted that the original 1st defendant died on 08.02.1985 leaving behind his legal heirs who are defendants 6 to 11 herein. The defendants 12 and 13 purchased portion of suit property from the defendants 1 to 11 and the said sales in favour of the defendants 12 and 13 not valid and not binding on the plaintiff. Since the presence of the defendants 12 and 13 is very essential for final adjudication of the matter,



they impleaded as parties. The petitioner's mother plaintiff died on 30.01.2004. He further referred to the adjudication and submitted that I.A.Nos.1 to 3 of 2023 are pending. I.A.No.1 of 2023 is to condone delay, I.A.No.2 of 2023 is to set aside the abatement and I.A.No.3 of 2023 is for bringing legal heirs on record. Thus, the applications are pending without proper adjudication and the suit has been periodically adjourned citing pendency of the above applications. The adjournment of the case is only beneficial to the defendants and periodical adjournments are only denying the petitioner's rightful enjoyment of the property. Hence, the petitioner prayed that the applications to be disposed of and the suit itself can proceed and get completed within a short period.

4.Considering the submissions and on perusal of the materials, it is seen that it is a partition suit and it is the tendency of the defendants who are enjoying the property by protracting the proceedings. In this case, admittedly, the suit is pending for more than forty years. Originally, the suit was filed with few defendants and later due to death of the defendants, the legal heirs was brought in and now there are 17 defendants. The defendants are residing in and around Thiruvallur District. Hence, ensuring the



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participation of all defendants and to proceed with the trial would not be a difficult task had the Court shows proper inclination to complete the long pending case.

5.In view of the above, this Court directs the learned Additional District Munsif, Ambattur to proceed with the trial and complete the suit in O.S.No.522 of 2007 within a period of six months from the date of receipt of a copy of this order.

6.With the above direction, this civil revision petition stands allowed.

No costs.

21.06.2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes

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M.NIRMAL KUMAR, J.

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To

The Additional District Munsif,
Ambattur.



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