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C.R.P.No.1435 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.06.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P(PD).No.1435 of 2012 and
C.M.P.Nos.9036 & 9038 of 2020 and M.P.No.1 of 2012

Rajasekar

... Petitioner

Versus

- 1.S.Subburayan
- 2.S.Ramu
- 3.Saraswathi
- 4.Loganathan
- 5.Shanmugam Chettiar(Died)
- 6.Ananda Baskaran(Died)
- 7.Krishnamurthy Padayatchi
- 8.The Commissioner
HR & CE Board
Having office at Nungampakkam High Road
Chennai-600 034.
9. The Joint Commissioner
HR & CE Board
Having office at Villupuram.
10. The Assistant Commissioner
HR & CE Board
Having office at Cuddalore



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11. The Collector of Cuddalore District
Having office at Cuddalore.

12. The Tahsildar
Cuddalore
Having office at Taluk Office
Cuddalore.

13. Sudamani

14. Vijayalakshmi

15. Palanivelu

16. Rajavel

17. Kumaravel

18. Gomathi

19. Ramesh

20. Shankar

21. Vasanthi

22. Jayamalini

(Respondent-5 died. Respondents 13 to 17 are brought on record as LR's of the deceased R-5 viz., Shanmugam Chettiar vide Court Order dated 27/06/2024 made in C.M.P.Nos.14270, 14274, 14268, 14265, 14267 & 14271/2024 in CRP.No.1435/2012)

(Respondent-6 died. Respondents 18 to 22 are brought on record as LR's of the deceased R-6 viz., Ananda Baskaran vide Court Order dated 27/06/2024 made in C.M.P.Nos.14270, 14274, 14268, 14265, 14267 & 14271/2024 in CRP.No.1435/2012)

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and final order dated 17.12.2011 passed in I.A.No. 194 of 2006 in O.S.No.164 of 2011 on the file of the Principal District Judge, Cuddalore District, Cuddalore.



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For Petitioner : Mr.S.Kingston Jerold
For Respondents 1 to 3 : Notice served
For respondent 4 : Dismissed vide c/o dated 08.02.2023
For respondents 5 to 7 : Dismissed vide c/o dated 12.08.2020
For respondent 8 to 12 : Mr.T.Arun Kumar
Additional Government Pleader

For respondents 13, 15 to 17 : Mr.R.Natarajan
For respondents 18 to 22 : served

ORDER

The present Civil Revision Petition has been filed against the order and decree dated 17.12.2011 in I.A.No. 194 of 2006 in O.S.No.164 of 2011. The petitioner is the 3rd defendant in the suit and respondents 1 and 2 are plaintiffs in the suit. The respondents 3 to 7/defendant 1 and defendants 4 to 7 in the suit are the legal heirs. The suit in O.S.No.164 of 2011 filed seeking a decree to declare that the suit properties belongs to Kullappa Chetty Chatram, Kullanchavadi. The plaintiffs filed an application in I.A.No.194 of 2006 praying that they may be permitted to prosecute the suit in a representative capacity. The said interlocutory application was allowed by the Principal District Judge, Cuddalore and passed an order and decree dated 17.12.2011.

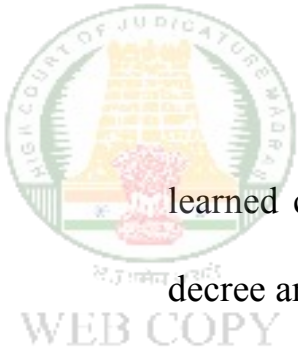


Against the said order, the petitioner, who is the 3rd defendant in the suit filed this civil revision petition.

2. The learned counsel for the petitioner submits the Court below erred in passing a non-speaking order in a petition filed under Section 92 of Code of Civil Procedure and the Court below failed to assign reasons for granting permission to prosecute a suit in a representative capacity. It is also the contention of the learned counsel for the petitioner that the petition itself is not maintainable under Section 92 of Code of Civil Procedure. The learned counsel further contended that by passing the impugned order, the Court below have acted with material irregularity and also exceeded its jurisdiction not vested in law.

3. In spite of service of notice, there is no representation on behalf of the respondents 1 and 2/plaintiffs.

4. Heard the submissions of the learned counsel for the petitioner, learned Additional Government Pleader for the respondents 8 to 12 and



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learned counsel for the respondents 13 to 17 and on careful perusal of the decree and order dated 17.12.2011 passed by the Court below, this Court is not having any hesitation to hold that the order passed by the Principal District Judge, Cuddalore will not sustain in the eye of law, in view of the fact that no reasons are assigned in the order while allowing the petition. On this sole ground, in our opinion, the order and the decree dated 17.12.2011 in I.A.No.194 of 2006 will not sustain in the eye of law and it is liable to be set aside.

5. Accordingly, this Civil Revision Petition is allowed and the order dated 17.12.2011 in I.A.No.194 of 2006 in O.S.No.164 of 2011 on the file of Principal District Judge, Cuddalore is hereby set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

24.06.2024

Index:Yes/No.

Internet:Yes/No.

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To

The Principal District Judge, Cuddalore District, Cuddalore.



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BATTU DEVANAND.J.,

nr

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C.M.P.Nos.9036 & 9038 of 2020 and M.P.No.1 of 2012**

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