



C.R.P.No.1932 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1932 of 2024

P.Karthikeyan

... Petitioner

Vs.

1.Jayammal
2.Palaniammal
3.Pachiammal
4.Pacha Murugan
5.Revathi @ Devi
6.Santhanagopal
7.Sambamoorthy
Balasubramani [Died]
8.Udhyaraj
9.G.Prabavathi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned I Additional District Judge, Namakkal to dispose of the suit in O.S.No.14 of 2021 within a time frame.

For Petitioner : Mr.Dhruva
for Mr.M.Jaurudeen



C.R.P.No.1932 of 2024

ORDER

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The petitioner/10th defendant in O.S.No.14 of 2021 filed this civil revision petition seeking direction to the learned I Additional District Judge, Namakkal, to dispose of the suit in O.S.No.14 of 2021 within a time frame.

2.Since the prayer sought for by the petitioner/10th defendant is to the limited extent, notice to the respondents is dispensed with.

3.The first respondent/plaintiff filed a partition suit against nine persons on the premise that the first respondent's father K.S.Natesa Gounder died intestate leaving behind the respondents as his legal heirs. The petitioner was not initially arrayed as party to the suit. Thereafter, the petitioner filed I.A.No.5 of 2021 claiming as interested party to the suit and to implead him as defendant in the suit. The Trial Court by order dated 07.12.2023 impleaded the petitioner as 10th defendant in the suit in O.S.No.14 of 2021. The petitioner claimed his right of succession to the property on the ground that K.S.Natesa Gounder and his brother Vellaiya Gounder, who is the petitioner's grandfather, inherited the property from



Sengoda Gounder and legal heir to the property. Since the respondents herein claiming right over the property by succession, the petitioner also has the right of succession to the property. The Trial Court considered the same and arrayed the petitioner as party to the partition suit.

4.The primary contention of the learned counsel for the petitioner is that the respondents herein in a collusive manner not proceeding with the trial, thereby denying the petitioner of his right and enjoyment over the property. He would submit that the suit was taken on file on 21.01.2021, thereafter it took some time for service of summons and the petitioner was arrayed as party to the suit on 07.12.2023. The first respondent/plaintiff failed to carry out the amendment and fresh amended copy has not been filed, thereafter for one reason or other the case adjourned periodically. On 24.01.2024, written statement also filed but till date, amendment not carried out and hence, the petitioner is unable to file his written statement and the proceedings are getting stalled. According to the petitioner, this is a deliberate act of the first respondent/plaintiff with collusive defendants to deny the petitioner of his inheritance to the property.



C.R.P.No.1932 of 2024

5.Considering the submissions made and on perusal of the e-court adjudication produced by the learned counsel for the petitioner, it is not in dispute that the suit was filed in the year 2021, thereafter the petitioner filed I.A.No.5 of 2021 and the Trial Court by order dated 07.12.2023 impleaded the petitioner as 10th defendant in the partition suit, but till date the first respondent/plaintiff not filed the amendment petition which is not proper. Hence, the Trial Court to ensure that amendment is filed without further delay. It is seen that written statement has been filed by the contesting respondents and once the amended plaint is filed, the petitioner can agitate his right before the Trial Court and the Trial Court to proceed and complete the proceedings in O.S.No.14 of 2021 preferably within a period of six months from the date of receipt of a copy of this order.

6.With the above direction, the Civil Revision Petition stands allowed.

No costs.

13.06.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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C.R.P.No.1932 of 2024

M.NIRMAL KUMAR, J.

cse

To

The I Additional District Judge,
Namakkal.

C.R.P.No.1932 of 2024

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