



C.R.P.No.1900 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.06.2024
PRONOUNCED ON : 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1900 of 2024

V.K.Marappan

... Petitioner

Vs.

V.M.Ardhanari (Died)

1.V.M.Thirumurugan

Nanjammal (Died)

2.Bakkiyalakshmi

3.Kannamal

4.Punithavathi

5.Sakthi

6.Manjula

7.Chinnathambi

8.Sasirajan

9.Sasi Anand

10.Jothi

Yellammal (Deceased)

11.V.R.Paari

12.Saroja Devi

13.Manimegalai

14.Santhi

15.Rajesh

16.Rathi

... Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to direct the III Additional District and Sessions Court, Gopichettipalayam, Erode District to dispose the appeal in A.S.No.12 of 2017 within stipulated time by allowing this revision petition.

For Petitioner : Mr.K.Krishnan

ORDER

The petitioner is the plaintiff in O.S.No.74 of 2000 which was filed for partition. Challenging the judgment and decree, dated 30.04.2009 in O.S.No.74 of 2000, the respondents herein filed appeal suit in A.S.No.12 of 2017. Since the appeal suit is pending without substantial progress, the petitioner filed the present revision seeking speedy disposal.

2.The learned counsel for the petitioner submitted that the petitioner filed O.S.No.74 of 2000 before the learned I Additional Subordinate Judge, Gobichettipalayam seeking one third of the share against the respondents and the suit was decreed on 30.04.2009 in favour of the petitioner. Thereafter, final decree application in I.A.No.553 of 2012 filed and the same was also allowed on 26.10.2016. After passing final decree, the respondents herein filed first appeal against the final decree before the learned Principal District Judge, Erode in A.S.No.75 of 2017 which was transferred to the file



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of the III Additional District and Sessions Court, Gobichettipalayam and renumbered as A.S.No.12 of 2017. The learned counsel further submitted that the appellants 1 and 3 in A.S.No.12 of 2017 passed away, thereafter, I.A.No.4 of 2013 in A.S.No.12 of 2017 filed to bring legal heirs in the appeal which is pending before the appellate Court. The 3rd respondent's legal heirs already brought on record. The petitioner is 83 years old man from 2000 to till now he is successfully kept away from the family property. The respondents citing the pendency of the appeal suit, denied the petitioner's enjoyment over the property. The final decree in I.A.No.553 of 2012 passed as early as in the year 2016. It is almost eight years, but nothing substantial progress took in the appeal suit. He further submitted that the Privy Council even at the early stage observed that the difficulty of the litigants begin when he obtains a decree. In this case, the petitioner obtained decree in the year 2009, but he is facing difficulty till now. Hence, he sought for appropriate direction for completion of the appeal suit.

3.This Court considered the submissions and perused the materials and also the report of the III Additional District and Sessions Judge, Gobichettipalayam in D.No.798/2024, dated 13.06.2024.



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4.From the report, dated 13.06.2024, it is submitted that during the pendency of the appeal, one of the appellants died in the year 2021. Thereafter, abatement petition under Order XXII Rule 3 filed in I.A.Nos.2 of 2022, 3 of 2023 and 4 of 2023, all petitions allowed. Then, the appellants filed amendment petition to amend the memorandum of appeal I.A.No.5 of 2023 which is pending. In the amendment petition, notice not served to R3, R5, R6, R8 and R9, hence, substitute service ordered and also paper publication. Since it was not effected, the appellate Court dismissed the petition against R3, R5, R6, R8 and R9 and posted for counter on 24.04.2024. On 06.06.2024, the appellants filed petition to restore I.A.No.5 of 2023 against R3, R5, R6, R8 and R9 along with Section 5 Application. I.A.No.5 of 2023 stands posted for fresh paper publication for R3, R5, R6, R8 and R9 and counter of R1, R11, R13 and R15 and R17 on 27.06.2024.

5.It is also seen from the report that R12 died on 02.04.2021, R10 died on 19.05.2021 and R16 died on 30.07.2023. Thereafter, I.A.No.6 of 2023 stands posted for fresh paper publication for R5 and R9. But paper publication not effected, hence, I.A.No.6 of 2023 dismissed. Now the case



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has been adjourned to 27.06.2024. Finally the appellate Court submitted that strenuous effort would be taken to dispose of the case as early as possible.

6.In view of the above, this Court directs the learned III Additional District and Sessions Judge, Gobichettipalayam to ensure appeal suit in A.S.No.12 of 2017 is disposed of within a period of six months from the date of receipt of a copy of this order.

7.With the above direction, this civil revision petition stands disposed of. No costs.

09.07.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes

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M.NIRMAL KUMAR, J.

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To

The III Additional District and Sessions Court,
Gopichettipalayam, Erode District.



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PRE-DELIVERY ORDER IN
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