



C.R.P.No.1023 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1023 of 2023
and C.M.P.No.7407 of 2023

M.Shanmugapriya

... Petitioner

-Vs-

1.Padmavathi

2.State of Tamil Nadu
rep.by its District Collector
Erode.

3.The Tahsildar
Perundurai Taluk, Perundurai.

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and final order made in I.A.No.4 of 2023 in O.S.No.118 of 2022 dated 16.03.2023 on the file of the District Munsif Court, Perundurai.

For Petitioner : Mr.M.Karthik
for Mr.E.Sampath Kumar

For Respondents : Mr.K.Mylsamy - for R1
Mr.M.Muthusamy
Government Advocate - for RR 2 and 3



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ORDER

The civil revision petitioner is a third party to O.S.No.118 of 2022. The said suit was presented by the first respondent herein seeking for a declaration that she is the legal heir of one Deivasigamani, who passed away on 23.07.2016. She also sought for a mandatory injunction directing the defendants to issue a legal heirship certificate to her and for other ancillary reliefs.

2. The pleadings in the plaint proceed that the plaintiff Padmavathi married one Manoharan. Manoharan's parents were Deivasigamani and Muthulakshmi. Manoharan passed away intestate on 20.10.2001. The plaintiff was given a legal heirship certificate stating that she is the wife of Manoharan. Subsequently, her mother-in-law Muthulakshmi passed away on 19.01.2016 and her father-in-law Deivasigamani passed away on 23.07.2016. Hence, she applied for legal heirship certificate of the aforesaid deceased persons with the Tahsildar at Perundurai. The Tahsildar returned the application stating that there was an objection which has been made regarding the grant of legal heirship certificate and therefore, being a contentious issue it was left open to her to file a suit and seek for appropriate declaration. Hence the suit.

3. After the pleadings had been completed and evidence had been recorded,



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the civil revision petitioner filed an application to implead herself in I.A.No.4 of 2023. The said application was dismissed on 16.03.2023, against which the present revision.

4. The plea of the civil revision petitioner / third party is that she is the daughter of one Manickasundaram, who was the brother of Deivasigamani. Therefore, she would state that she is interested in getting herself impleaded in the present proceedings.

5. Heard Mr.Karthik for Mr.E.Sampath Kumar, for the petitioner and Mr.K.Mylsamy for the first respondent and Mr.M.Muthusamy, Government Advocate for the respondents 2 and 3.

6. In a suit for declaration that the plaintiff is the legal heir of Deivasigamani, the presence of his brother's daughter is neither essential nor necessary. The fact that the partition suit had been filed by the present petitioner seeking for a share as the legal heir of Manickasundaram will not give her a right to dabble with the suit presented by the daughter-in-law of Deivasigamani seeking for a declaration she is the legal heir of the deceased. If the civil revision petitioner had been in the line of succession, on the death of Deivasigamani she would certainly be a proper and necessary party. The facts set forth above would show that the civil revision petitioner is not Deivasigamani's daughter, but the daughter of his brother, Manickasundaram. Therefore, she is neither necessary nor proper party to the



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present suit. The issue of marriage of Padmavathi with Manoharan cannot be at the

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V. LAKSHMINARAYANAN, J.

KST

instance of the civil revision petitioner because, the plaintiff Padmavathi would anyway have to prove that she was validly married to the deceased Manoharan.

7. Mr.Mylsamy would further submit that the matter is now listed for judgment. By impleading the petitioner, it will only further delay the proceedings. A widow has been waiting from 2016 for more than eight years in order to secure a declaration she is a legal heir. By impleading a rank third party, who is not in the line of succession, it will only increase the agony of the plaintiff. Hence, I am not inclined to interfere with the impugned order.

8. The Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The District Munsif-cum-Judicial Magistrate
Perundurai.



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