



C.R.P.No.2879 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2879 of 2024
and C.M.P.No.15295 of 2024

Gurbir Kaur

....

Petitioner

-Vs-

1.Inderjit Singh Suri
2.Manjit Kaur
3.Harkeeraat
5.Juspreet
6.Daman Singh Suri
7.Keerthana
8.Sahib Singh Suri
8.Gursharan Singh Suri

....

Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.7 of 2023 in O.S.No.6789 of 2019 on the file of the XV Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Manikkasivasubramani
for M/s.Prakash Goklaney

For Respondents : Ms.Vasudha Thiyagarajan - for R1
RR 2, 3, 4, 5 and 6 - No appearance
RR 7 and 8 - Not ready in notice



C.R.P.No.2879 of 2024

WEB COPY

ORDER

This Civil Revision Petition arises against the order passed by the XV Additional City Civil Court at Chennai in I.A.No.7 of 2023 in O.S.No.6789 of 2019.

2. O.S.No.6789 of 2019 was originally presented before this Court as C.S.No.342 of 2011. The suit is one for partition and separate possession of the suit schedule mentioned property. The case of the plaintiff is that one Attar Kaur had purchased the property on 23.05.1962. She passed away on 29.10.1983. She left behind as her legal heirs, the plaintiff and defendants 1 to 7. The seventh defendant pleaded that Attar Kaur had executed a "Will" and had bequeathed the property in her favour. She had also initiated proceedings for probate before this Court in O.P.No.603 of 1995. The plaintiff will plead that the said proceedings have subsequently been abandoned. The father of the defendants 5 and 6 one Kartar Singh Suri initiated C.S.No.1881 of 1994 before this Court. That suit too was dismissed for default on 20.01.2006. As the property remained undivided and since the demand of the plaintiff for partition was not satisfied, she came forth with C.S.No.342 of 2011. She would plead that she is entitled to 1/4 share, defendants 1 to 4 being the legal heirs of Gurcharan Singh Suri are entitled to 1/4 share, defendants 5 and 6 being the legal heirs of Kartar Singh Suri are entitled to 1/4 share and the seventh defendant Gurbir Kaur is entitled to 1/4 share.



C.R.P.No.2879 of 2024

WEB COPY

3. The third defendant Harsachin who is the son of Gurcharan Singh Suri passed away pending the suit. He expired on 27.11.2012. On being intimated about the death of Harsachin, the plaintiff took out applications in I.A.Nos.5,6 and 7 of 2023 to condone the delay, to bring on record and to set aside the abatement caused due to the death of the third defendant. These applications were allowed. The plaintiff took out a very unique stand that as the wife of Harsachin had remarried on 05.10.2017, she is not entitled to a share in the property of her late husband. Therefore, the plaintiff impleaded the sons of Harsachin and arrayed them as defendants 8 and 9. The said application was allowed. Aggrieved by the same, the seventh defendant has preferred this revision.

4. I heard Mr.Manikkasivasubramani for the civil revision petitioner and Ms.Vasudha Thiagarajan for the respondents.

5. The relationship between the parties is not in dispute. Harsachin is the son of the brother of the plaintiff Gurcharan Singh Suri. He married Gurleen Kaur and from the wedlock the defendants 8 and 9 were born. The view taken by the plaintiff that on account of the remarriage of Gurleen Kaur on 05.02.2017, she is no more the legal representative of the deceased Harsachin, is ex-facie erroneous. Gurleen Kaur succeeded to the estate of Harsachin the minute he passed away. This is by virtue of the Hindu Succession Act. Her marriage does not divest the



C.R.P.No.2879 of 2024

property vested in her in the year 2012. Her remarriage in the year 2017 does not amend the share of her sons in large. She is certainly entitled to participate in the proceedings. Therefore, the view taken by the plaintiff necessarily requires to be interfered with.

6. As submitted by Mr.Manikkasivasubramani, as she is a legal heir and the suit being one for partition, Gurleen Kaur is entitled to be brought on record. Since the application has been allowed without her absence, I am of the view that the plaintiff need not take separate application to implead Gurleen Kaur as a party to the proceedings. This is because the learned Judge has already set aside the abatement as well as condoned the delay in I.A.Nos.5 and 6 of 2023. All that has to be done is to include Gurleen Kaur as party 10th defendant to the suit. The only contesting defendant is the seventh defendant and Mr.Manikkasivasubramani has no objection to implead Gurleen Kaur as 10th defendant. Accordingly, the Civil Revision Petition is disposed of on the following terms:

- a) Mrs.Gurleen Kaur, residing at Plot No.2512, Sector 49, Mohali, Punjab, is impleaded as 10th defendant in the suit.
- b) The plaintiff shall take out summons on to the 10th defendant in the proceedings.
- c) After service of summons, the suit will be taken up for disposal. It is made clear that the plaintiff need not file separate application to implead, as this Court has already impleaded her as a party to the



C.R.P.No.2879 of 2024

said proceedings.

WEB COPY

7. With the above directions, this Civil Revision Petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

26.09.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

XV Additional Judge
City Civil Court, Chennai.



WEB COPY



C.R.P.No.2879 of 2024

V. LAKSHMINARAYANAN, J.

KST

C.R.P.No.2879 of 2024

26.09.2024