



CRP. No.1813 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP. No. 1813 of 2023
and CMP No. 11677 of 2023

1 Ramachandran

...Petitioner

Vs.

1 Rajendran

2 The District Collector

Tiruppur

3 The Tahsildhar

Udumalpet

...Respondents.

PRAYER : This Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Order and decree passed in IA.No. 716/2022 in OS.No. 68 of 2022 on the file of the District Munsif Court Udumalpet.

For Petitioner : Mrs. Hema Sampath, Senior Counsel.
for Mr.S.Prabhu

For R1 : Mr.K.V.Sundararajan

For R2 & R3 : Mr.V.Jeeva Giridharan



CRP. No.1813 of 2019

ORDER

This petition has been filed to set aside the Order and decree passed in IA.No. 716/2022 in OS.No. 68 of 2022 on the file of the District Munsif Court Udumalpet.

2. The first respondent herein filed an application in I.A No. 716 of 2022 in O.S No. 68 of 2022 before the District Munsif, Udumalpet, seeking to implead him as proposed 3rd defendant in the said suit. After considering the submission on either side the Trial Court allowed the said application. Challenging the same the plaintiff/petitioner herein filed this petition.

3. The petitioner herein filed the suit for declaration to declare himself as only legal heir to one Kangaraj son of Srinivasalunaidu who died on 26.11.2021. The wife of the said Srinivasalunaidu is one Rajammal who is the sister of this petitioner/plaintiff. The said Kanagraj was the only son born to Rajammal and Srinivasanaidu and he married one Chandrakala but out of wedlock they have no issues and the said Kanagaraj died on 26.11.2021 and his wife was died on 18.03.2010. During the lifetime of the Kanagaraj the plaintiff who was spinster adopted by the said kanagaraj as a son and to that effect in the ration card also his name was included, the plaintiff was residing in the said ration card address until death of the said Kanagaraj and



CRP. No.1813 of 2019

the plaintiff was maintained by him. The said Kanagraj mother was died in the year 1997 and his father Srinivasalunaidu also died much earlier.

Therefore, the deceased Kanagaraj died without first class legal heirs, the plaintiff is only a second class legal heir, being a second class legal heir he is entitled for the estate and the properties left by the deceased kanagaraj. When the plaintiff approached the revenue authorities to transfer the name after the death of the said kanagaraj the revenue authorities refused to accept his contention as he is not a direct legal heir of the said Kanagaraj therefore he filed the present suit in O.S No.68 of 2022 praying to declare him as only legal heir of the deceased Kanagaraj against the revenue officials.

4. While being so, one Rajendran/respondent herein filed I.A No. 716 of 2022 under Order 1 Rule 10(2) CPC praying to implead him as third defendant in the said suit. According to him, Chandrakala is his sister, who is wife of the deceased Kanagaraj. Both of them died issueless therefore as per Section 15 (2) of Hindu Succession Act the petitioner is necessary party to the proceedings. The plaintiff/petitioner herein raised strong objection to the said application stating that the brother-in-law of the Kanagaraj is not a legal heir so he is not necessary party not proper party to the proceedings



CRP. No.1813 of 2019

therefore he prayed to dismiss the application. On hearing both sides, the Trial Court held that status of the party can be decided only after completion of the trial as suit is for declaration to declare the plaintiff as legal heir. Further, the plaintiff also not a direct legal heir of the deceased Kanagaraj and proposed party put up rival claim therefore in order to avoid multiplicity of proceedings the first respondent was impleaded as third defendant. Challenging the said findings the petitioner/plaintiff filed this petition.

5. The learned counsel for the petitioner submitted that the petitioner is the brother-in-law of the deceased Kanagaraj who is not entitled to participate in the suit proceedings but the Trial Court without appreciate the legal proposition erroneously allowed the said application he prayed to allow this petition.

6. By way of reply, the learned counsel for the proposed party/first respondent herein submitted that mere impleading the proposed party would not cause any prejudice to the petitioner on the other hand the petitioner herein is not stated the nature of the property and also as how it belongs to the deceased Kanagaraj by impleading the first respondent would not cause prejudice to the petitioner hence he prayed to dismiss this petition.

7. On considering the submissions on either side, the



CRP. No.1813 of 2019

plaintiff/petitioner herein filed the suit to declare him as legal heir of Kanagaraj who died issueless. In the meanwhile, the proposed party/first respondent herein filed the application to implead him as party to the said proceedings. Admittedly, the proposed party is the brother-in-law of the deceased Kanagaraj and also the plaintiff/petitioner herein not averred in the plaint about the nature of the property and also as to how the property is belongs to the Kanagaraj or it belongs to the kanagaraj family therefore as a plaintiff, the petitioner is bound to said about the nature of the property whether it is ancestral or self acquired property of the deceased Kanagaraj without which he claimed him as legal of Kanagaraj. Further, as rightly pointed out by the respondent counsel he is having another brother Narayanasamy and his legal heir also not been added as party to the proceedings. If the plaintiff claimed himself as brother of the deceased Rajammal(mother of the Kanagaraj) but another brother also entitled to contest the case but those parties have not been added as necessary party to the proceedings. Hence, as observed by the Trial Court, in order to avoid further complications. Further, only after completion of the Trial we can find who is the second class legal heir, at this stage I am not inclined to go into this matter.



CRP. No.1813 of 2019

WEB COPY 8. In the result, this petition is dismissed. No Costs. Consequentially,
connected miscellaneous petition is closed.

05.04.2024

pbl

To
The District Munsif, Udumalpet.



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CRP. No.1813 of 2019

T.V.THAMILSELVI,J.

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CRP. No.1813 of 2023
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