



C.R.P.(PD).No.2603 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2603 of 2021
and CMP.No.19345 of 2021

Manickam

... Petitioner

vs.

- 1.Kaliappan
- 2.Kuppammal
- Muthu (deceased)
- 3.Margandan
- Lakshmi (died)
- 4.Loganathan
- 5.Dhanalakshmi
- 6.Santhi
- 7.Vasanthi
- 8.Madhaiyan
- Mukka Gounder (deceased)
- Rajamanickam (deceased)
- 9.Vadivel
- 10.Jayanthi
- 11.Viji
- 12.Sripriya
- Dheepanji Ammal (deceased)
- 13.Kandan
- 14.Chakravarthy
- 15.Sugandira
- 16.Balaji

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17.Sridevi

... Respondents

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Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decretal order as made in I.A.No.410 of 2020 in O.S.No.58 of 2007, dated 07.09.2021 on the file of the District Munsif Court, Palacode, Dharmapuri District, allowing the petition filed by the 1st respondent herein to reopen and examine fresh witness.

For Petitioner	: Mr.R.Karthikeyan
For Respondents	: Mr.R.Selvakumar for Caveator for R1 R2 to R6 and R15 to R17 No appearance R7 to R14-given up

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court allowing the application filed by the first respondent/plaintiff seeking to reopen the case to enable the first respondent to examine two more witnesses on his behalf.



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2. The main suit is for partition. It is the case of the first respondent that the suit properties are the ancestral properties. The said suit was resisted by the petitioner and other respondents on the ground that certain suit property were self acquired property of father of contesting party viz., Surukkalan @ Mariappan.

3. When the matter was posted for arguments after completion of evidence of both the sides, the first respondent/plaintiff filed the instant application seeking to reopen of the case enabling him to examine the two other witnesses.

4. In the affidavit filed in support of the application seeking to reopen the case, it was averred by the first respondent that he got certain documents which would prove the suit properties were ancestral properties of Surukkalan @ Mariappan. In order to mark those new documents found by the petitioner, the respondent sought for reopening of the case to examine two other witnesses on his side. The said application was allowed by the Court below by taking into consideration the interest of justice. Aggrieved by



the same, the petitioner is before this Court.

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5. The learned counsel appearing for the petitioner submitted that the suit is of the year 2007 and the same has been pending for several years and the present application has been filed by the first respondent with new facts just to drag on the proceedings.

6. The pleadings of the parties would suggest there is a controversy between the character of certain suit properties. It is the case of the first respondent that the suit property is the ancestral property. Therefore, the first respondent is not making any attempt to introduce new facts. In such circumstances, taking into consideration the new documents sought to be marked by the first respondent would enable the Court to decide the controversy in more effective manner, the trial Court decided to give one opportunity to the first respondent and allowed the application.

7. Taking into consideration the suit is of the year 2007 and the present application was filed, when the matter was posted for arguments, this Court feels that the first respondent should be imposed with costs to



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compensate the any convenience caused to the petitioner. Hence, the first respondent is directed to pay a sum of Rs.5,000/- as costs to the petitioner within a period of two weeks from the date of receipt of a copy of this order. On such payment, the first respondent is entitled to the benefit of the order allowing I.A.No.410 of 2020. In case, the first respondent failed to pay the cost as directed in this revision, I.A.No.410 of 2020 shall stand automatically dismissed.

8. Accordingly, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

15.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The District Munsif Court, Palacode,
Dharmapuri District.

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S.SOUNTHAR, J.

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