



WEB COPY



C.R.P (PD) No.1702 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P (PD) No.1702 of 2024

&

C.M.P.No.9027 of 2024

1.Smt.Chitra
2. Chandraleka
3. Thamarai Selvan

.. Petitioners

vs.

1. Smt.M.Vijayalakshmi
2.M.Karthik
3.M.Anu Sharmila

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order order passed in I.A.No.526 of 2022 in O.S.No.33 of 2020 dated 01.07.2023 on the file of the District Munsif Court at Arakkonam.

For Petitioner : Mr.V.Nithyanandam

ORDER

This revision arises against an order dismissing an application filed for rejection of plaint in I.A.No.526 of 2022 in O.S.No.33 of 2020 on the file of the District Munsif Court at Arakkonam.



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2. O.S.No.33 of 2020 has been filed by one Vijayalakshmi claiming that one Mohanraj, who was working as a BT Assistant at Guruvarajpet, Arakkonam, had married her on 16.01.1987. She claims that the suit schedule mentioned property absolutely belongs to her husband as well as the second and third plaintiffs, who are the son and daughter born to Vijayalakshmi and Mohanraj. She would state that Mohanraj developed illicit relationship with the first defendant Chitra, from which the second and third defendants were born. Unfortunately Mohanraj died in an accident on 21.01.2020 and since the defendants attempted to deny their legal status, the plaintiffs brought forth a suit for declaration that they are the legal heirs of deceased Mohanraj and for permanent injunction restraining the defendants from interfering with the possession of the suit property.

3. In this suit, an application was taken out for rejection of the plaint. The ground on which the plaint was sought to be rejected was that there was no cause of action as the plaintiffs had not stated sufficient facts in order to establish their right over the property.

4. The learned trial Judge, on considering the arguments, came to a conclusion that since there exists a dispute as regards the marriage of Mohanraj with the first plaintiff on 16.01.1987 and since the parties are



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disputing the legal heirship, the same can be only gone into at the time of trial.

5. I have heard Mr.V.Nithyanandam for the petitioner.

6. He would submit that there is no cause of action for the suit and the same has to be rejected. For the purpose of rejection of a plaint I have to take the averments in the plaint, to be true and thereafter go on that basis. If I were to take the pleadings of the plaint to be true, then as the first wife and children of the deceased Mohanraj, they will be entitled for a declaration as prayed for. The factum that the notice was issued on 23.04.2020 by the defendants denying the status only adds to the relief that the plaintiffs seek and does not detract from the case. As I find that there is cause of action, I am not inclined to agree with Mr.Nithyanandam.

7. Mr. Nithyanandam brings to my notice that for the very same relief sought by the plaintiff in this case, the petitioner/defendants have also presented a suit in O.S.No.37 of 2021 on the file of the District Munsif Court at Arakkonam. Since the issues are intertwined, learned District Munsif at Arakkonam is directed to club both O.S.No.33 of 2020 and O.S.No.37 of 2021 and render a common judgment in both the suits.



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8. With the above direction, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

12.04.2024

Index:Yes/No

Neutral Citation:Yes/No

gpa

To

1. The District Munsif Court
Arakkonam
2. The Section Officer
VR Section
Madras High Court



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V. LAKSHMINARAYANAN, J.

gpa

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