



C.R.P.No.1939 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1939 of 2024

1.Sellamman (Deceased)

2.Suseela

... Petitioners

Vs.

Periyaswamy (Deceased)

Karupannan (Deceased)

1.Anbuselvam (Mentally Retarded)

2.Krishnan

3.Revathi

4.Aravind

5.Prithvirajan

6.Ponnammal

7.Ramadas

8.Indira

9.Baakiyam

10.Seetha

11.Selvarani

12.Maarimuthu

[Cause-title accepted vide this Court order dated

16.04.2024 made in C.M.P.No.4028 of 2024

in C.R.P.SR.No.157164 of 2023]

... Respondents



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PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to direct the Principal Sub Court, Namakkal to dispose of the O.S.No.81 of 2015 pending before it within a stipulated period of time as may be fixed by this Court.

For Petitioners : Mr.M.Selvaraghavan

ORDER

This Civil Revision Petition has been filed by the petitioner/plaintiff seeking a direction to the Principal Sub Court, Namakkal to dispose of the case in O.S.No.81 of 2015 pending on its file within a stipulated period of time.

2.The petitioner's mother Sellamman filed a suit for partition on 18.02.2015. The original defendants in the suit are the petitioner's uncles/brothers of petitioner's mother. After filing of the suit, the petitioner's mother/plaintiff died on 28.07.2015. The petitioner is the only legal heir of Sellamman. Hence, she got impleaded as plaintiff. The first defendant filed written statement on 02.09.2015 and the second defendant was set ex-parte.



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During the pendency of the suit, the first defendant/first respondent died on 27.04.2017 and his legal heirs were brought on record. The second defendant/second respondent also died on 03.01.2023. The legal heirs of second defendant were also impleaded as defendants. Though the second respondent was set ex-parte, his legal heirs were impleaded for proper adjudication.

3.The learned counsel for petitioner submitted that the suit is pending from the year, 2015. On 24.11.2021, the amended plaint copy filed and thereafter the case periodically adjourned. On 18.07.2023, the case was adjourned to 14.08.2023 for recording of ex-parte evidence in I.A.No.5 of 2023. Further it got adjourned and finally on 28.08.2023, I.A.No.5 of 2023 was allowed and again adjourned to 09.10.2023 for filing amended plaint copy with amendment. On 09.10.2023, it was recorded that amended plaint copy filed, amendment carried out and the case was adjourned to 07.11.2023 and thereafter too, the trial not progressed and the case has been periodically



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adjoined. So far, 109 adjournments happened in the above suit and no substantial progress made. The trial Court for one reason or other adjourning the case, now pleadings completed, evidence to be recorded, preliminary decree and thereafter final decree to be passed in the suit. Due to the dilatory tactics adopted and the trial Court being non-sensitive to the issue , the case is adjourned periodically without reason. The trial Court by giving long adjournment had denied the petitioner's right of enjoying her share of property and the respondents successfully keeping away the petitioner from inheriting her mother's family property. Hence, sought for the above direction.

4.Since it is only a limited prayer seeking direction to complete the trial within the stipulated period, notice to the respondents not required. Hence, notice to the respondents dispensed with.



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5.Considering the submissions made and on perusal of the amended
plaint and adjudication proceedings produced by the petitioner, it is seen that
the suit was filed as early as on 18.02.2015 and till 09.10.2023, 109
adjournments have gone by, but the suit not made any substantial progress.
As per the adjudication dated 09.10.2023, it is seen that amended plaint copy
filed, further I.A.No.5 of 2023 seeking to record ex-parte evidence allowed,
the suit is pending for almost nine years. This Court time and again issued
directions to the trial Court, five years or more old cases to be completed
within a stipulated period by giving top priority. In this case, the suit is kept
pending for nine years, now the case is posted for ex-parte evidence. It is a
partition suit and it is not known as to how more years it will take and
whether at all the petitioner can have a fruit of enjoying the family property.



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M.NIRMAL KUMAR, J.

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6.In view of the above, this Court directs the trial Court (Principal Subordinate Court, Namakkal) to complete the trial in O.S.No.81 of 2015 within a period of four months from the date of receipt of a copy of this order. It is made clear that this four months period is only an outer limit.

7.With the above directions, this Civil Revision Petition is allowed.

No costs.

04.06.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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Note: Issue order copy on 10.06.2024

To

The Principal Subordinate Judge,
Namakkal.

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