



C.R.P.(MD)No.317 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.317 of 2022

and

CMP (MD) No.1392 of 2022

Mr.Answar Ali : Petitioner/Respondent/
Plaintiff

Vs.

1.Syed Hussain : 1st Respondent/Petitioner/
Proposed Defendant

2.The Tasildhar,
Taluk Office,
Nilakottai,
Dindigul District.

3.The District Collector,
Collector Office,
Dindigul,
Dindigul District.

4.The Village Administrative Officer,
VAO Office,
Nilakottai,
Dindigul District. : Respondents 2 to 4/
(As no relief is claimed 2nd to 4th Respondents/
against 2nd to 4th respondents, 1st to 3rd Defendants
notice is given up)

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 22/01/2021 in IA No.1 of 2021 in OS No.93 of 2020 made on the file of the District Munsif Court, Nilakottai and to pass such other further orders.



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For Petitioner : Mr.S.Rajesh Saravanan
For 1st Respondent : Mr.V.George Raja
For R2 to R4 : Given up

O R D E R

This civil revision petition has been filed seeking to set aside fair and decreetal order, dated 22/01/2021 passed in IA No.1 of 2021 in OS No.93 of 2020 by the District Munsif, Nilakkottai.

2.The facts in brief:-

A suit in OS No.93 of 2020 was filed by the petitioner herein impleading the Government Officials as defendants to declare that he is the second class legal heir of the deceased Nannaba Mohammed Ali and for directing the Tasildhar, Nilakottai to issue the legal heir certificate to him and for costs. Pending the process, the third party namely Syed Hussain filed IA No.1 of 2021 to implead himself as necessary and proper party. That came to be allowed by the trial court by the impugned order.

3.Aggrieved over the same, this civil revision petitioner is preferred by the original plaintiff.

4.Heard both sides.



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5.For deciding this point, necessarily the plaint pleadings must be taken into account.

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6.In the plaint, the petitioner has stated that his own brother namely Nannaba Mohammed Ali died, on 25/09/2018. Nannaba Mohammed Ali married one Taj. She expired, on 10/02/2019. Nannaba Mohammed Ali had no children. They were no direct legal heirs. The property mentioned in the plaint absolutely belongs to Nannaba Mohammed Ali. He was in possession and enjoyment of the same till his death. After the death of Nannaba Mohammed Ali, the petitioner came into possession of the properties and in enjoyment by paying necessary taxes. For transferring the revenue records in his name and for effecting partition, he applied the legal heirs certificate to the first defendant namely Tashildar, Nilakkottai, on 20/10/2020. On 02/1/2022, it was returned advising him to approach the civil court for appropriate orders.

7.Apart from that, it is also stated by the petitioner that their father namely Nannaba Sahib expired, in 1952. The mother expired, on 05/12/1988. The parents had seven children. Except the petitioner, all other children expired. So according to him, he is the 1st



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class legal heirs of the deceased, for which he is entitled for the relief.

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8.Now the proposed party filed the impugned petition with the following averments:-

(i)Along with Nannaba Mohammed Ali, Usain Beevi, Goribeevi, Mohidden Bash, Kamal Basha, Anwar Ali namely the petitioner herein were born. Without impleading the legal heirs of these persons, plaint has been presented as if Anwar Ali alone is the legal heir. According to them, the proposed party of the legal heirs of the above said persons are necessary parties. But without impleading them, the plaint has been presented. About 16 persons is sought to be impleaded as necessary parties.

(ii)That came to be allowed by the trial court stating that unless all the legal heirs of the persons mentioned in the affidavit, no binding adjudication can be made. So impleaded them to avoid the multiplicity of proceedings. Whether the plaintiff can be declared as the lawful legal heirs of the deceased can be found out only at the time of trial.



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9.Challenging the above said, this civil revision petition has been preferred on the ground that the petitioner being the plaintiff can implead the persons against whom he wants the relief. So according to the petitioner, the proposed parties are not necessary parties and against them, he did not make any claim. Apart from that, it is also submitted that as per the Mohammed Law, only surviving brother or sister are legal heirs of the deceased Nannaba Mohammed Ali and claimed the legal heir, but without adverting to the above said issue. The petition stands allowed by the trial court. According to him, it is not legal.

10.Per contra, the learned counsel appearing for the 1st respondent/proposed party would submit that unless they are impleaded as necessary parties, a binding adjudication cannot be made. Who are the legal heirs of the deceased person can be found out only during the course of trial. He would also rely upon the Will executed by the wife of Nannaba Mohammed Ali, dated 04/02/2019. In the document, so many facts have been narrated. One among the fact is that the petitioner has sold several properties belongs to her husband illegally. Several litigations were initiated by this petitioner against her husband. And several allegations were also



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made against the petitioner. He would also rely upon the judgment passed in OS No.839 of 2012 by the Principal District Munsif, Dindigul, town survey extract and revenue records.

11.It appears that all those documents were not produced before the trial court by the proposed party. Now whatever, it may the above narration of facts by the proposed party will indicate that thorough trial process only will give the correct answer to the issue raised. So I am of the considered view that the stand taken by the trial court is perfectly valid in law, which requires no interference at all.

12.In the result, this civil revision petition stands **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

02/02/2024

Index:Yes/No
Internet:Yes/No
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To,

The District Munsif,
Nilakottai,
Dindigul District.



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G.ILANGOVAN, J

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