



C.R.P.(MD)No.538 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.538 of 2024

and

C.M.P.(MD)No.2709 of 2024

1.Saraswathi

2.P.Kamalam

3.M.Indirmani

4.R.Nidyanatham

5.R.Subramani

... Petitioners/Petitioners/Plaintiffs

Vs.

1.R.Narayanan

2.N.Nandhakumar

3.N.Ramya

4.R.Mahalakshmi

5.N.Jayalakshmi

6.Sooriyakumari

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order dated 04-01-2024 passed in I.A.No.3 of 2023 in O.S.No.169 of 2022 on the file of the learned Principal District Judge, Karur District by allowing this revision petition.



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For Petitioners : Mr.V.Balaji

For Respondents : Mr.B.Saravanan, Senior Counsel,
For Mr.D.Kirubakaran.

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ORDER

Heard the learned counsel for the revision petitioners and the learned senior counsel appearing for the contesting respondents.

2.The revision petitioners filed O.S.No.169 of 2022 on the file of the Principal District Court, Karur seeking partition. The suit was allowed on the premise that the suit property was an ancestral property of the plaintiffs' grandfather namely Narayana Reddiyar. The plaintiffs wanted to amend the plaint by changing the character of the suit property as self acquired property. To that effect, I.A.No.3 of 2023 was filed. The Court below dismissed the same vide order dated 04.01.2024. Challenging the same, the present civil revision petition has been filed.

3.On 08.04.2024, the following order was passed:-

“Learned Counsel for the Petitioner has produced the copy of the document of the year 1915, which according to him is a self acquired property of S. Narayana Reddy.



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2. *Learned Senior Counsel appearing for the Respondents states that copy of the said document has not been produced before the Trial Court.*

3. *In view of the same, Learned Counsel appearing for the Petitioner shall produce the copy of the document of the year 1915 before the Trial Court and inform to this Court on the next hearing.*

Post the matter on 14.06.2024.”

4. Today ie., 23.08.2024, when the matter was taken up for hearing, the learned counsel for the revision petitioners produced copy of the Document No.3454/1915 to show that the suit property was the self acquired property of Narayana Reddiyar.

5. I am of the view that this issue need not be gone into at this stage. I would rather dispose of the civil revision petition by holding that since pre-trial amendment was sought by the plaintiffs, the Court below ought to have been liberal. That apart, what the plaintiffs filed is only a suit for partition. Eventually, the plaintiffs are obliged to establish the true character of the suit property to make out their case.



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6. In this view of the matter, the impugned order is set aside and the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:
The Principal District Court,
Karur.



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G.R.SWAMINATHAN, J.

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