



WEB COPY



C.R.P.(MD)No.797 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25/03/2024

CORAM

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

C.R.P(MD)No.797 of 2022

and

CMP(MD)No.3228 of 2022

1.Saroja
2.Gobikrishnan
3.Ramani

: Petitioners/Petitioners/
Proposed party

Vs.

1.Ramalakshmi
2.Kasturi
3.Sathyabama

: R1 to R3/R1 to R3/
Plaintiffs 1 to 3

4.R.R.Ramalakshmi

: 4th Respondent/
4th Respondent/Defendant

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 28/02/2022 made in IA No.13 of 2022 in OS No.314 of 2015 on the file of the Principal District Munsif Court, Sankarankovil.

For Petitioners : Mrs.S.Mahalakshmi

For R1 to R3 : Mr.N.Sankar Ganesh

For 4th Respondent : M/s.R.Vishali



C.R.P.(MD)No.797 of 2022

O R D E R

WEB COPY This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 28/02/2022 passed in IA No.13 of 2022 in OS No.314 of 2015 by the Principal District Munsif, Sankarankovil.

2.The facts in brief:-

The suit in OS No.314 of 2015 was filed by the respondents 1 to 3 herein as plaintiffs seeking the relief of declaration that the suit 1st item belongs to them absolutely and for permanent injunction and for removal of the construction made in the 1st item and recovery of possession, etc. The defendants entered appearance, filed the written statement. In the course of trial process, a petition was taken out by the petitioners herein in IA No.13 of 2022 seeking an order to implead themselves as party defendants in the suit. That came to be dismissed by the trial court.

3.Against which, this civil revision petition is preferred.

4.The facts narrated above before the trial court are that 1st item of the suit property originally belonged to one Sangava Naicker and his son Gangaiya Naicker and



C.R.P.(MD)No.797 of 2022

Rasi Naicker. Gangaiya Naicker's first wife was Veerammal. Through Veerammal, one Balsamy was born. The 1st petitioner herein is the wife of Balsamy. Balsamy and the 1st petitioner herein had two children. The son is the 2nd petitioner and 3rd petitioner is the daughter.

5. Leaving these legal-heirs, the plaintiffs and the defendants 1 to 3 are contesting the matter. It was brought to the notice only, on 02/01/2022. The properties are joint family properties, in which, petitioners also having right and title.

6. Gangaiya Naicker's second wife name is Iyyammal. Through her, four sons and two female children born. Since, Gangaiya Naicker died intestate, the property belongs to him devolved upon all the legal heirs. So, if the decree is passed without impleading them, their right will also be affected.

7. That was contested by the respondents stating that no proper documents were produced to show that they are also the legal heirs of the deceased Gangaiya Naicker. Veerammal and her children executed a release deed, on 08/07/1965. They also received Rs.2,800/-. It is a registered released deed. So, after the release deed, the



C.R.P.(MD)No.797 of 2022

petitioners have no right over the property. Only to drag on the proceedings, this petition is filed.

WEB COPY

8.The trial court was of the view that in view of the release deed, dated 08/09/1965, the petitioners have no right over the properties.

9.Against which, this civil revision petition is preferred.

10.Heard both sides.

11.The suit is of the year 2015. At that time of argument of the suit, this petition came to be filed by the petitioners herein to implead themselves as necessary parties on the ground that they are also having shares in the property and without their presence, if any decree is passed, it may affect their interest.

12.Per contra, it is contention on the part of the respondents herein that having known the proceedings pending before the trial court, after several years, at the time of argument stage, this petition has been filed by the petitioners only to drag on the proceedings.



C.R.P.(MD)No.797 of 2022

13.No doubt that there is a delay on the part of the petitioners in filing this petition. According to the petitioners, they came to know about pendency of the suit only at the fag end of the trial process. Had they known the pendency of the suit earlier, they would have approached the court immediately. Because, there is no reason for them to delay the process. Whether the petitioners got any share in the property is a matter for consideration, after this revision is going to be allowed.

14.Reading of the order passed by the trial court shows that there is no dispute with regard to the fact that Gangaiya Naicker had two wives namely Veerammal and Iyyammal. It is also admitted that through Veerammal, Gangaiya Naicker had a son by name Subbaiah @ Balsamy. But both of them namely Veerammal and Subbaiah @ Balsamy executed a release deed, dated 08/09/1965, in lieu of the relinquishment of the share in the ancestral properties and they received Rs.2,800/- also. The trial court went on to discuss about the validity of the document, which is marked as Ex.R1. On going through the documents, the trial court was of the view that when there is a registered relinquishment deed, they cannot now say that they are having share in the properties.



WEB COPY

15. So this manner of disposal is now under disputed by the petitioners. Whether Veerammal and Balsamy relinquished their share in the joint family property by receiving Rs.2,800/-, the jurisdiction is exclusively within the matter of the trial court, after the evidences.

16. Release deed must be proved as per law. Simply because of the registered document is before the trial court, the trial court ought not to have taken the same as proved. But the existence of the release deed is not mentioned by the petitioners. The reason for the non-disclosure or transfer or suppression of the document is also one of the matters must be taken into account by the trial court. When the relinquishment deed to be proved in a proper manner known to law, I am of the considered view that the finding upon that document is a prematured one.

17. On that ground, the order passed by the trial court is set aside. The petition filed by the petitioners stands allowed. After completing the formalities, considering the facts of the case, the trial court may expedite the trial process and complete the same by following the directions issued by this Court in



C.R.P.(MD)No.797 of 2022

R.O.C.No.984/2015/RG/B5 dated 25.02.2016 wherein this Court directs the trial Courts to expedite the trial process in the matters pending for more than 5 years.

WEB COPY

18.In the result, this civil revision petition stands **allowed**. The fair and decreetal order, dated 28/02/2022 passed in IA No.13 of 2022 in OS No.314 of 2015 by the Principal District Munsif Court, Sankarankovil is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

25/03/2024

Index:Yes/No
Internet:Yes/No
er

To,

- 1.The Principal District Munsif,
Sankarankoil.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.797 of 2022

G.ILANGO VAN, J

er

C.R.P (MD) No.797 of 2022

25/03/2023