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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.985 of 2019

and

C.M.P.(MD)No.5533 of 2019

Manohar

... Petitioner

-VS.-

- 1.Indirani
- 2.Sumathi
- 3.Sri Jesli Ovans @ Manoj Kumar
- 4.Sri Jestram @ Vijayakumar
- 5.Jeyanthi
- 6.Mahamayee
- 7.Kanchana
- 8.Kavitha
- 9.Sri Alagar (Died)
- 10.Sakthi
- 11.Mala
- 12.Amaravathy
- 13.Sri Suresh (Died)
- 14.Sri Rajesh
- 15.Jaya
- 16.Sumathi (Died)
- 17.Sri Vimal
- 18.Pawnthayee
- 19.Sigamani @ Karuppayee
- 20.R.Venkatesan



21.N.Rani  
22.R.Saravanan  
23.V.Amaiyyappan  
24.Balamurugan  
25.Sumathi  
26.Eswari  
27.Alageswari  
28.Pandiammal

...Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India to call for the records and set aside the fair and decreetal order dated 03.04.2019 in I.A.No.80 of 2018 in O.S.No.16 of 2012 on the file of the Additional District and Sessions Court, Theni @ Periyakulam.

For Petitioner :Ms.Karthiga  
for Mr.H.Lakshmi Shankar

For R1 to R8  
R10 to R12, R14,  
R16 to R18, R21 to  
R25, R27 and R28 :No Appearance  
R9, R13 and R16 :Died

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### **ORDER**

This Civil Revision Petition has been filed seeking to set aside the order, dated 03.04.2019, in I.A.No.80 of 2018 in O.S.No.16 of 2012 on the file of the Additional District and Sessions Court, Theni @ Periyakulam.



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2.The petitioner is the plaintiff in the suit in O.S.No.16 of 2012 on the file of the Additional District and Sessions Judge, Theni @ Periyakulam. The suit was filed for partition and for other reliefs. During the pendency of the suit, the petitioner/plaintiff filed an application in I.A.No.80 of 2018 to amend the plaint under order VI Rule 11 r/w Section 151 CPC, by contending that the the plaintiff was not aware of the entire family properties at the time of filing of the suit. The trial Court had dismissed the said application on the ground that the amendment application was filed belatedly and if such application is allowed, it will change the character of the suit. Aggrieved by the same, the present Civil Revision Petition is filed.

3.Ms.Karthiga, learned Counsel appearing for the petitioner submitted that as the suit itself is for partition and the three properties, which were sought to be included in the suit, are the family properties as well as ancestral properties, unless and until, all the properties are decided by the trial Court at the final hearing, it may not be appropriate for the trial Court to take a different view in a suit for partition.



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4.Despite notice was served on the respondents and their names were also printed in the cause list, none appears on their behalf.

5.Considering the facts and circumstances of the case and taking into consideration the submissions made by the learned Counsel for the petitioner, the order passed by the trial Court in I.A.No.80 of 2018 in O.S.No.16 of 2012, dated 03.04.2019, is set aside. As the suit is of the year 2012, the trial Court is directed to complete the trial within a period of one year from the date of receipt of a copy of this order.

6.In the result, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**02.12.2024**

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|----------|---------|
| Internet | :Yes/No |
| NCC      | :Yes/No |
| Index    | :Yes/No |
| cmr      |         |



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To

The Additional District and Sessions, Theni @ Periyakulam.



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**N.SENTHILKUMAR, J.**

cmr

**C.R.P.(MD)(PD)No.985 of 2019**

02.12.2024