



C.R.P(MD).No.1874 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.11.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1874 of 2022

and

C.M.P.(MD)No.8421 of 2022

T.R.Ganesan

... Petitioner / Plaintiff

Vs

1.Rajangam

2.Balasubramaniam

3.Muthurathinam

4.Krishnan

5.Kamatchi

6.Sudharani

7.Thiruvayi

8.Venkadeswari

9.Lakshmi

10.Prema



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11.Selvi

12.Muniyandi

13.Umadevi

14.Sumithra ... Respondents 3 to 14 / Proposed respondents 3 to 14

Prayer : Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the fair and final order passed by the Sub Court, Manamadurai in I.A.No.2 of 2019 in A.S.No.142 of 2019 dated 01.04.2022.

For Petitioners : Mr.N.Tamilmani

For R1 to R6 : Mr.S.Parthasarathy

For R7 to R14 : No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and final order passed by the Sub Court, Manamadurai in I.A.No.2 of 2019 in A.S.No.142 of 2019 dated 01.04.2022.

2. The facts in brief is that the suit in O.S.No.95 of 2014 was filed by this revision petitioner against the respondents herein seeking the relief of declaration and permanent injunction regarding the item No.1



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and 2 of the suit properties and for partition in respect of Items 3 to 5 of the suit properties. The trial Court at the conclusion of the trial process, dismissed the suit without any cost. Against which, this revision petitioner has preferred an appeal in A.S.No.142 of 2019 before the Sub Court, Sivagangai. Pending the hearing, the present impugned I.A.No.2 of 2019 was taken out with the following averments:

(i) The application was filed under Order 1 Rule 10(2) under Section 151 of C.P.C., to implead the proposed parties as Respondents and defendants as 3 to 14 stating that the suit first two items belongs to one Alagayiammal. The Alagayiammal had three children namely Seethaiyammal, Sangaiah pillai, Annamuthammal. Out of the above said three children, the petitioner is the son of Annamuthammal. Sangaiah Pillai had a daughter by name Sangarammal @ Rajamanickam. She died in the year 2001 without issues. Her husband also died long back. Seethaiammal had a son by name Chandran Pillai. Chandran Pillai died in 2002, left a male child, six female children, wife. So the petition in I.A.No.2 of 2019, was filed seeking impleadment of the above said person as the respondent / defendants, for binding adjudication since they are having share in the property.



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(ii) That was resisted by the respondents 1 and 2 setting out the history of property. The proposed parties namely respondents 7 to 14 appeared and filed their counter, adopting the averments made in the affidavits filed in the revision petition. Apart from that it is stated that they are having right in the property. After hearing all, the appellate Court recorded a finding that contra averments are made in the affidavit to the plaint averments. Having known the availability of other legal heirs, they were not impleaded as parties. The petitioner has not approached this Court with clean hands. Having suffered a decree of dismissal, after lapse of several years, this petition is filed. Against which this revision is preferred.

3. At the time of hearing, learned counsel for the petitioner and respondents 1 and 2 would submit that a compromise is going to be reached between them before the appellate Court. According to the respondent, the necessity of impleading the proposed parties does not arise.



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4. Per contra, learned counsel for the petitioner would submit that if any compromise is reached between the revision petitioner and the respondents 1 and 2 in the absence of the proposed parties, who are also having share in the property, the compromise will not be effective and complete. The proposed parties may agitate the same which will lead to unnecessary complications in future and for that purpose he wants the compromise to be recorded in the presence of the sharers, so that it will be a complete one and binding.

5. This submission made by the revision petitioner appears to be reasonable and acceptable one. No doubt there is a delay on the part of the revision petitioner in impleading the sharers. But that will not and should not affect the right of the proposed parties. Even if the petition is dismissed, the proposed parties may file an application to implead themselves as party. So in either way, unnecessary delay will occur. To avoid the multiplicity of proceedings, I am of the considered view that in the light of the submissions made by both sides, the revision is liable to be allowed.



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6. Accordingly this Civil Revision Petition is allowed and the orders passed by the learned Subordinate Judge, Manamadurai, is set aside and the petition in I.A.No.2 of 2019 stands allowed and appellants Court must carry out the amendment as per the procedure. No costs. Consequently, connected miscellaneous petition stands closed.

11.11.2024

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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To

1.The Subordinate Judge, Manamadurai.

2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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