



C.R.P(MD)No.1923 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1923 of 2019

and

C.M.P(MD)No.9810 of 2019

Jaya Kumar

... Petitioner/Petitioner
Plaintiff

Vs.

1.Raja Thangam

2.Rajeswari

3.Ghanthimathi

... Respondents 1 to 3/Respondents 1 to 3
Defendants 1 to 3

4.Minor Jeyasurya

*(Represented by his mother Rajeshwari as
natural Guardian)*

5.Minor Iswarya @ J.Jeni Rose Gilbert

*(Represented by her mother Ganthimathi as
natural Guardian)*

6.Sanjeev Kumar

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7.Subash

8.Dinesh

9.Manikandan

... Respondents 4 to 9/
Proposed Respondents 4 to 9/
Third parties

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and decreetal order in I.A.No.1 of 2019 in O.S.No.160 of 2018 passed by the Sub Court, Eraniel, dated 15.04.2019 and set aside the same.

For Petitioner : Mr.K.P.Narayanakumar

For R-1 to R-5 : Mr.T.Arul

For R-6 to R-9 : No appearance

ORDER

The present revision petition has been filed by the plaintiff in O.S.No.160 of 2018 on the file of the Sub Court, Eraniel.

2. The said suit has been filed for the relief of partition and for declaration that, the settlement deed, dated 06.11.2011 in favour of the first defendant, Will deed, dated 23.10.2014 in favour of one Jeyasurya

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and Will deed, dated 23.10.2014 in favour of one Iswarya @ J.Jeni Rose Gilbert executed by the first defendant are null and void. They have further prayed for a declaration that, the settlement deed, dated 06.04.2011 in favour of the first defendant, the sale deed, dated 25.07.2013 in favour of Sajeew Kumar and sale deed, dated 14.11.2013 in favour of Subash, Dinesh and Manikandan executed by the first defendant are void and not binding upon the plaintiff insofar as 1/4th share of the plaintiff concerned. Though the plaintiff has referred to the beneficiaries of the document in the prayer in the plaint, he has not chosen to implead them. Hence, he had filed I.A.No.1 of 2019 for impleading the beneficiaries of the settlement deed and the Will deed, which are challenged in the plaint. It was stoutly opposed by the original defendants on the ground that, these applications are being belatedly filed, especially after having knowledge about the settlement deeds and Wills.

3. Accepting the said contention and also with a finding that, the application has been filed belatedly after a period of four years, the Trial



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Court has chosen to dismiss the impleading application. Challenging the same, the present revision petition has been filed by the plaintiff.

4. The facts narrated above will clearly establish the fact that, the name of the beneficiaries under the settlement deed and the Will deed have been specifically mentioned in the prayer. However, they have not been impleaded as defendants in the suit. The impleading application in I.A.No.1 of 2019 have been filed within one year from the date of filing of the present suit. The Trial Court has mis-construed it as a delay of 4 years from the date of the document.

5. Therefore, considering the fact that the application for impleading has been filed within one year from the date of filing of the suit and the issues are yet to be framed in the suit, the order of the Trial Court cannot be sustained.

6. In view of the above said facts, this Civil Revision Petition stands allowed by setting aside the order in I.A.No.1 of 2019, dated



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15.04.2019 and allowing the I.A.No.1 of 2019. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

18.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Sub Court,
Eraniel.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.1923 of 2019

18.04.2024