



C.R.P.No.1269 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.1269 of 2025

C.M.P.No.7608 of 2025

Natesan

...Petitioner

Vs

1.Ilamurugu

2.Anbarasi

3.M.Appavu

...Respondents

PRAYER :- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to allow the Civil Revision Petition by setting aside the fair and decretal order dated 29.10.2024 passed in I.A. No.5 of 2024 in O.S.No.14 of 2016 on the file of the Additional District Judge-II, Tiruchengode.

For Petitioner : Mr.S.Senthil

ORDER

Challenging the order passed in I.A.No.5 of 2024 in O.S.No.14 of 2016 on the file of the II Additional District Court, Tiruchengode, impleading respondents 1 and 2 herein as defendants in the above suit,



C.R.P.No.1269 of 2025

the plaintiff/petitioner is before this Court.

WEB COPY

2.The suit has been filed by the petitioner herein seeking for a partition and separate possession of his half share in the suit schedule property. Pending the suit the respondents 1 and 2 herein had filed I.A.No.5 of 2024 to implead themselves as defendants 2 and 3 in the suit. One Lakshmi is the mother of the respondents 1 and 2. They would contend that the petitioner/Natesan is the elder brother and the third respondent Appavu is the younger brother of the said Lakshmi. Lakshmi passed away on 26.06.2002. The father of the respondents 1 and 2, Ramasamy died on 25.11.2023. They are therefore the only legal heirs of Lakshmi and Ramasamy. The respondents 1 and 2 would submit that without adding the respondents 1 and 2 who are the legal heirs of Lakshmi as a party to the proceedings, the petitioner has filed the suit for partition impleading only the third respondent. The respondents 1 and 2 would submit that their father had no knowledge about the suit filed by the petitioner/plaintiff. It is also their contention that after the demise of their mother, respondents 1 and 2 and their sister are in joint possession of the suit property along with their maternal uncles who are the petitioner and the third respondent herein. It is only when they had



C.R.P.No.1269 of 2025

attended the family function when somebody has spoken about the partition suit that respondents 1 and 2 had come to know about the same and they realized that their maternal uncles were attempting to take away the property without giving their mother's share. Therefore, they had taken out this application to implead themselves.

3.The petitioner/plaintiff had filed a counter *inter alia* contending that the properties vested originally with one Kaligounder, the maternal grand father of the petitioner and the third respondent. The B schedule properties therefore automatically vested with their mother Pavayammal by virtue of a sale deed dated 16.04.1941 and C schedule properties vested with the petitioner and the third respondent as per the purchase documents dated 10.06.1971 and 03.02.1973. Their maternal grand father Kaligounder had executed a Will dated 27.05.1945 in respect of the A schedule property. During his lifetime A schedule properties were being enjoyed by his two wives Chinnamal, Paavayi and his only daughter Paavayiammal. Kaligounder died in the year 1957. His first wife Chinamal passed away in 1970 and the second wife Paavayi in the year 1980. Paavayiammal, the mother of the plaintiff and third respondent died on 01.08.2006. After their demise and as per the Will of late



C.R.P.No.1269 of 2025

WEB COPY

Kaligounder, the petitioner and the third respondent jointly acquired and enjoyed the suit schedule properties. Ultimately, the learned Judge had allowed the implead petition stating that Lakshmi Ammal's right to the property had to be decided in the suit for partition. Challenging the same, the petitioner/plaintiff has filed the Civil Revision Petition.

4. Heard the learned counsel for the petitioner and perused the records.

5. Admittedly, the property in question originally belonged to the father of the petitioner, third respondent and their sister, the deceased Lakshmi Ammal. On the death of their grand father, the property devolved on his wives and his daughter and after the demise of his two wives, his daughter, who is the mother of Lakshmi Ammal, the petitioner and third respondent became entitled to the property and after her lifetime the property devolved on the petitioner, third respondent and Lakshmi Ammal. The suit has been filed deliberately omitting them. Therefore, the impugned order does not suffer from any infirmity and therefore be confirmed.



C.R.P.No.1269 of 2025

WEB COPY

6.At this juncture the learned counsel for the petitioner would submit that in the judgment, the learned Judge has observed that the property in question is admittedly an ancestral property. Such an admission has not been made by the plaintiff. Therefore, while dismissing the Civil Revision Petition the sentence in the penultimate paragraph of the judgment "Admittedly the A schedule property is ancestral property" is deleted. In all other aspects the order is confirmed. The suit shall be disposed of within a period of six months from the date of receipt of copy of this order.

7.The Civil Revision Petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

27.03.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
ep

To

The Additional District Judge-II, Tiruchengode.



WEB COPY



C.R.P.No.1269 of 2025

P.T.ASHA, J.

ep

C.R.P.No.1269 of 2025
C.M.P.No.7608 of 2025



WEB COPY



C.R.P.No.1269 of 2025

27.03.2025