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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.1227 of 2024

and

C.M.P(MD)No.7043 of 2024

1.M.Markkandeyan

2.N.Chandraleka (Widow)

...Petitioners/Petitioners/Plaintiffs

A.C.M.Ponnammal (Died)

...5th Plaintiff

(LR's of the 5th plaintiff are already on record. Hence there is no need to file a petition to bring LR's of her). The above said 5th Plaintiff had executed a registered Will to the 1st Plaintiff regarding her share of the undivided properties)

Vs.

1.M.Srinivasan

...Respondent/Respondent/3rd party

M.Ganeshwara Boopathy (*Reported as died*)

2.Lakshmi

(*Cause title accepted & Lakshmi is added as 2nd respondent as LR of the deceased M.Ganeshwara Boopathy, vide Court order dated 15.07.2024, made in CRP(MD)No.1227 of 2024*)

3.M.Gnanavel

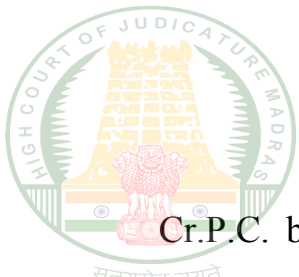
...Respondents/Respondents/Defendants

4.M.Kodeeswara Ramanathan

5.J.Ganagamirtham

...Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed on 11-12-2023 in the I.A.No.1 of 2023 in the O.S.No.128 of 2000, on the file of the Sub-ordinate Judge, Virudhunagar and direct the lower court to offer a chance to the petitioners to prove that herein the 1st respondent as an impersonator committed crime as per the section 340



Cr.P.C. by reopening the I.A.No.1/2023, which was filed under Section 151 C.P.C and also to prevent the impersonator to amend as a defendant by allow this Civil Revision Petition.

For Petitioners : Mr.M.Markkandeyan
(Party in person)
For Respondents : M/s.Lakshmi Gopinathan
for M/s.Polax Legal Solution
for R1, R4 & R5
No appearance for R2 & R3

* * * * *

ORDER

The plaintiffs in O.S.No.128 of 2000, on the file of the Subordinate Court, Virudhunagar, have filed the present revision petition, challenging the dismissal of their application filed under Section 340 of Cr.P.C., to declare that newly impleaded party, M.Srinivasan, as an impersonator.

2.A perusal of the records reveal that the revision petitioners herein had filed the above said suit for the relief of partition and separate possession. The suit is pending from the year 1994 onwards. A third party, namely, M.Seenivasan, has filed I.A.251 of 2001, to get himself impleaded in the suit on the ground that he is also one of the legal heirs of Mallaiah Naicker. This application came to be allowed by the trial Court on 14.07.2004. The first revision petitioner herein had filed I.A.202 of 2005, to review the said order.



The review application was dismissed on 20.04.2015. Challenging the allowing of I.A.251 of 2001, and the dismissal of I.A.No.202 of 2005, the first revision petitioner herein has filed C.R.P.(MD)No.1060 of 2015. After hearing the party in person, this Court by an order dated 25.04.2023, has proceeded to hold that the order passed by the trial Court I.A.No.251 of 2001 & I.A.202 of 2005, are in order. However, the trial Court was directed to give sufficient opportunity to the first revision petitioner to mark necessary documents submitted by him before the trial Court at the time of trial, especially, the School Certificate, SSLC book, Government Service Records pertaining to the impleaded third party, namely, M.Srinivasan.

3.Though this order was passed by this Court on 25.04.2023, so far the revision petitioner has not chosen to file the amended plaint copy including the name of the newly impleaded party, namely, M.Srinivasan. It is not known why the trial Court has so far not invoked Order 6 Rule 18 of C.P.C.

4.The revision petitioners herein had filed I.A.No.1 of 2023, to initiate appropriate action as against the impleaded party, namely, M.Seenivasan, on the ground that he is an impersonator. When the said application has been filed invoking Section 340 of Cr.P.C. r/w 151 of C.P.C., the trial Court has proceeded to dismiss the application on the ground that the issue raised by the



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revision petitioner with regard to the impersonation of the newly impleaded party could be decided only at the time of trial. Challenging the same, the present revision petition has been filed.

5. According to the first revision petitioner, who is appearing party-in-person, the said M.Srinivasan is an impersonator and that could be established by way of the school records, the Service Register and other documents. Therefore, based upon these documents, the said M.Srinivasan should be declared as impersonator. The trial Court has not properly appreciated the pleadings and the documents placed before it.

6. Per contra, the learned Counsel appearing for the first respondent in the revision petition has contended that the issue has been relegated to the trial proceedings by way of order of this Court in C.R.P.(MD)No.1060 of 2015, dated 25.04.2023. In such circumstances, the trial Court cannot be directed to consider the issue before trial.

7. I have considered the submissions made on either side and perused the materials available on record.



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8.The third party, namely, M.Srinivasan got himself impleaded in a suit for partition by way of filing an application in I.A.No.251 of 2001. The said order has already been confirmed by this Court in C.R.P.(MD)No.1060 of 2015, dated 25.04.2023. In such circumstances, the plaintiff has no other option than to implead him and file an amended plaint copy before the trial Court. The said process cannot be delayed by the plaintiff contending that he has filed I.A.No.1 of 2023, to declare the said M.Seenivasan as an impersonator. The said defence was already raised by him before this Court in C.R.P.(MD)No.1060 of 2015, and the issue has been relegated to the trial by this Court. In such circumstances, the trial Court cannot be found fault with for dismissing the application in I.A.No.1 of 2023. Therefore, there are no merits in the revision petition.

9.Accordingly, this Civil Revision Petition stands dismissed with liberty to the petitioners to mark all the documents that were pointed out by this Court in C.R.P.(MD).No.1060 of 2015, during trial. No costs. Consequently, connected miscellaneous petition is also closed.

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Internet: Yes/No
Index: Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The learned Sub-ordinate Judge, Virudhunagar.

Copy to:-

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

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