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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.772 of 2020

and

C.M.P(MD)No.5153 of 2020

Dhanalakshmi

... Petitioner

-VS.-

- 1.N.Rajangam (Died)
- 2.P.Neelavathi
- 3.A.Athitha Karikalan
- 4.Arunmozhi Meena
- 5.N.Chandramohan
- 6.S.Govindasamy
- 7.K.Sivanesan
- 8.K.Sivashanmugam
- 9.A.Kavitha
- 10.S.Rajeswari
- 11.N.Parimala Gandhi
- 12.K.R.Govindarajan
- 13.P.Chandra
- 14.G.Ashok Raman
- 15.S.Geetha
- 16.P.Ravikumar
- 17.P.Sudarsan
- 18.M.Ramar
- 19.V.Satheesh
- 20.P.Premush Vincent



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21.K.Umarani

22.S.Chelladurai

23.Panchayat President,
Krishnapuram Panchayat,
Krishnapuram, Kumbakonam Taluk.

24.V.Chandramohan

25.S.Hemalatha

26.E.Saminathan

27.K.Kumar

28.S.Jeyanthi

29.B.Mallika

30.K.Saminathan

31.P.Anuradha

32.Indirani

33.Gangadevi

34.Manimegalai

35.Saminathan

36.Kalayanasundaram

37.Shanmunathan

38.Karpagam

39.Rajrajasozhan

40.Amaithi

41.Veerapandian

...Respondents

(Respondents 32 to 41 were impleaded as legal heirs of the deceased first respondent vide order of this Court, dated 27.07.2023 in C.M.P.(MD)No.8920 of 2021)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order, dated 25.06.2020 made in I.A.No.103 of 2019 in O.S.No.12 of 2018 on the file of the Additional District Judge (Fast Track), Kumbakonam.



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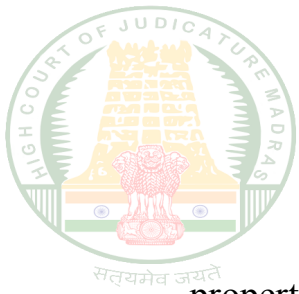


For Petitioner	:Mr.P.Thiyagarajan
R1	:Died
For R2, R3, R5 to R10, R11 to R15 to R19, R21, R22, R24 to R31 and R34	:No appearance
For R23	:Mr.J.Gunaseelan Muthiah
For R32, R33 and R35 to R41	:Mr.Gomathi Sankar

ORDER

The Civil Revision Petition is filed challenging the impugned order passed by the learned Additional District Judge (Fast Track), Kumbakonam, in I.A.No.103 of 2019 in O.S.No.12 of 2018, dated 25.06.2020.

2.The Revision Petitioner is the plaintiff in the suit for partition. The first defendant is none other than the brother of the plaintiff. The entire case evolves based on a Will, dated 26.09.1973, which has been written by the father of the plaintiff and the first defendant, by name, Narayanasamy. The said Will is under serious dispute with regard to its admissibility. According the Revision Petitioner, the Will was produced before the trial Court after filing of the written statement by the 12th defendant through his power agent. The copy of the Will describes two additional properties belonging to the parties. When the Revision Petitioner/plaintiff had come to know about that some more



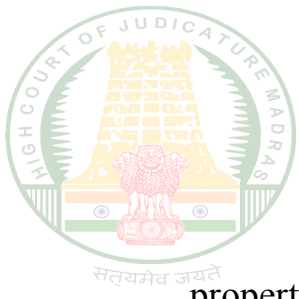
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properties are left out in the suit schedule, had filed an application for amending the prayer to include those properties. The trial Court has dismissed the amendment application on the ground that the plaintiff has not produced any valid document to substantiate his claim. Hence, the plaintiff has filed the present Revision Petition.

3.The learned Counsel appearing for the Revision Petitioner had taken the written statement filed by the 12th defendant, through its power agent, wherein, it is stated as follows:

“6.Pattu ammal was the absolute owner of the R.S.No.123/8, 204/9 and 286/3 situated in Krishnapuram Village in Kumbakonam Taluk, Ramamirthathammal had purchased the same from Pattu Ammal on 10.12.1956 through a registered sale deed for valid sale consideration. The above sale deed was duly registered before the Sub Registrar of Valangaiman. By virtue of the above sale deed Ramamirthathammal became the absolute owner of the R.S.No. 123/8, R.S.No.204/9, R.S.No.286/3 situated in Krishnapuram Village in Kumbakonam Taluk.”

4.From the above, it is clear that the property in S.Nos.123/8, 204/9 and 286/3 are situated in Krishnapuram Village, Kumbakonam Taluk. The learned Counsel pointed out that S.No.204/9 had already included in the 'C' schedule



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property. It is not in dispute that the Revision Petitioner/plaintiff had no knowledge about the said property at the time of filing the suit and she came to know about the same only when the Will was marked along with the written statement. This Court is not inclined to express any opinion with regard to the genuineness of the Will, dated 26.09.1973. However, the Revision Petitioner is entitled to make correction or amendment or necessary changes in the pleadings, as she was not aware of the said fact at the time filing of the suit.

5. In view of the same, the order passed by the trial Court in I.A.No.103 of 2019 in O.S.No.12 of 2018, dated 25.06.2020 is set aside and the application in I.A.No.103 of 2019 in O.S.No.12 of 2018 is allowed. The trial Court is directed to conclude the trial within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

02.01.2025

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No
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To

The Additional District Judge (Fast Track), Kumbakonam.



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N.SENTHILKUMAR, J.

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