



C.R.P(MD)No.1401 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **16.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1401 of 2023

and

C.M.P(MD)No.6971 of 2023

Sujatha

...Petitioner/
Revision Petitioner

Vs.

1.S.Jayalakshmi

2.M.Sumathi

3.B.Kala

4.R.Uma

5.R.Sudha

...Respondents 1 to 5/
Petitioners/Plaintiffs

6.The Government of Tamilnadu,
Represented by its District Collector,
Trichirappalli.

7.The Tahsildar,
Trichirappalli West Taluk,
Trichirappalli.

8.S.Surya

...Respondents 6 to 8/
Respondents 1, 2 & 4/
Defendants 1, 2 & 4



C.R.P(MD)No.1401 of 2023

WEB CO

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair order and decreetal order dated 20.04.2023 rendered in I.A.No.09 of 2023 in O.S.No.420 of 2017 on the file of the First Additional District Munsif, Trichirappalli.

For Petitioner : Mr.K.S.Kathiravan

For R1, R2 & R4 : Mr.B.B.Ashwin Bala

For R6 & R7 : Mr.S.Kameswaran
Government Advocate

ORDER

The present Civil Revision Petition has been filed against the fair order and decreetal order dated 20.04.2023 in I.A.No.09 of 2023 in O.S.No.420 of 2017 on the file of the I Additional District Munsif, Trichirappalli.

2. The petitioner is the plaintiff in O.S.No.526 of 2017. The petitioner is the third defendant in O.S.No.420 of 2017 filed by the respondents 1 to 5 herein. Both the suits pertain to the declaration of legal heirs of one late.Subramaniyan.



C.R.P(MD)No.1401 of 2023

3. The suit in O.S.No.420 of 2017 has been filed by the respondents 1 to 5 herein before the Principal District Munsif Court, Trichirappalli. O.S.No.526 of 2017 filed by the petitioner herein before the II Additional District Munsif Court, Trichirappalli. Both the cases were directed to be heard together by an order of the Principal District Judge, dated 04.06.2021. The petitioner has also challenged the same before this Court in CRP(MD)No.1190 of 2021, which was also dismissed on 07.09.2021. Thus, both the suits are being tried together.

4. The respondents 1 to 5 herein, who are the plaintiffs in prior suit in O.S.No.420 of 2017 were given right to begin and therefore the fourth respondent herein (fourth plaintiff in O.S.No.420 of 2017) was examined as P.W.1. The facts on record also indicate that in either of the suits, the respective parties have also filed their written statement. After P.W.1 was examined and cross examined, when the case was listed for further examination of plaintiff witness, an interlocutory application was filed by the respondent in I.A.No.9 of 2023 for recalling P.W.1, namely, fourth respondent herein. The application has been allowed by the Court with the following observations:



C.R.P(MD)No.1401 of 2023

"14. மேலும், இம்மனு பரிகாரம் தொடர்பான 4-ம் பிரதிவாதியின் பிறந்த தேதி தொடர்பான ஆவணங்களின் உண்மைத்தன்மையை தெளிவுப்படுத்தும் பொருட்டு அந்த ஆவணம் தொடர்பான கோப்புகளை தரவழைப்பு செய்ய மனுதாரர்கள் தரப்பில் ஏற்கனவே மனு தாக்கல் செய்யப்பட்டு இடைக்கால மனு எண். I.A.No.8/2023-ன்படி கோப்பிற்கு எடுக்கப்பட்டு விசாரணை செய்யப்பட்டுள்ளது என்பதும், மேற்படி மனுவும் தரவழைப்பு செய்வதற்கான உரிமையியல் நடைமுறை சட்ட விதிகள் 75-ல் குறிப்பிடப்பட்ட நடைமுறைகளை பின்பற்றப்படவில்லை என்ற அடிப்படையில், மேற்படி மனு தள்ளுபடி செய்யப்பட்டுள்ளது என்பதும் வழக்கு கோப்புகளிலிருந்து தெரியவருகிறது. அதன்படி மேற்படி இரண்டு வழக்கு பரிகாரங்களை தீர்வு காண்பதற்கு 4-ம் பிரதிவாதியின் பிறப்பு தொடர்பான ஆவணங்கள் அவசியமானது என்ற அடிப்படையில் வாதிகள் தரப்பில் ஏற்கனவே நடவடிக்கை எடுக்கப்பட்டுள்ளதும் தெரியவருகிறது. அதன்படி வழக்கு தரப்பினர்களுக்கு இடையேயான பிரச்சனையை முழுமையாகவும், அறுதியாகவும் தீர்வு காண்பதற்கு அவர்கள் தரப்பு சாட்சியத்தை முன்னிலைப்படுத்துவதற்கு போதுமான வாய்ப்பு கொடுக்கப்பட வேண்டும் என்ற நிலைநிறுத்தப்பட்ட சட்டக்கோட்பாட்டின்படி இம்மனு பரிகாரம் சட்டப்படி மனுதாரருக்கு கிடைக்கக்கூடியது என்றே இந்நீதிமன்றம் கருதுகிறது."

5. It is submitted that despite two opportunities have been given and despite order has been passed in CRP(MD)No.1190 of 2021 vide order dated 07.09.2021, the respondents 1 to 5 are prolonging the disposal of the respective suits. It is further submitted that during cross-examination of P.W.1 and P.W.2, the petitioner herein had obtained several admissions which demonstrate the falsity in the case of the respondents in O.S.No.420 of 2017 and therefore, this application has



C.R.P(MD)No.1401 of 2023

been filed to fill up the lacuna. It is further submitted that the Court has allowed the respondents/plaintiffs in O.S.No.420 of 2017 to fill up the lacuna that were pointed out/emerged during the cross-examination of the respective witness. It is further submitted that if the respondents are allowed to further fill up the lacuna, the petitioners will be put to hardship.

6. Per contra, the learned counsel for the respondents 1, 2 and 4 would submit that no prejudice will be caused if P.W.1 is allowed to let in evidence in respect of the allegation in O.S.No.526 of 2017. That apart, it is submitted that in O.S.No.526 of 2017, the petitioner herein had filed two copies of birth certificate of the fourth defendant in O.S.No.420 of 2017. Therefore, I.A.No.122 of 2018 was filed and an order came to be passed on 19.04.2018. It is submitted that pursuant to an order passed in I.A.No.122 of 2018 in O.S.No.526 of 2017, the private complaint was also filed under Section 340 of Cr.P.C. in C.C.No. 955 of 2022 before the Judicial Magistrate, Trichy which has been dismissed. Subsequently, further attempts have been made to file an appeal and leave has been granted by this Court in Crl A(MD)SR.No. 4244 of 2022. Hence, it is prayed that the present civil revision petition is



C.R.P(MD)No.1401 of 2023

liable to be dismissed as no prejudice will be caused.

WEB COPY

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents 1, 2 and 4.

8. The purpose of the trial before the Trial Court particularly for a joint trial is to elicit the truth as to whether the petitioner or the respondents 1 to 5 are the legal heirs of late.Subramaniyan. By allowing the fourth respondent herein to be further examined no prejudice will be caused to the petitioner although the proceedings are getting slightly delayed.

9. In my view, the Court will be required to come to correct conclusion as to whether the petitioner and her son are the legal heirs of late.Subramaniyan or whether the respondents 1 to 5 are the legal heirs of late.Subramaniyan. I do not find reasons to interfere with the impugned order.

10. The respondents should have been ordered to pay higher cost



C.R.P(MD)No.1401 of 2023

for causing delay as the litigation in both the suits are prolonging on account of the delay caused by the respondents not once but twice.

Therefore, while dismissing the civil revision petition, I direct the respondents 1 to 5 to pay a sum of Rs.4,000/- over and above to the petitioner. Subject to such compliance by the respondents, the Court shall proceed further.

11. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

16.06.2023

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

sn

To

1.The I Additional District Munsif Court,
Trichirappalli.

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



WEB COPY



C.R.P(MD)No.1401 of 2023

C.SARAVANAN,J.

SN

C.R.P(MD)No.1401 of 2023

16.06.2023