

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:15.07.2026

Pronounced on:24.07.2026

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CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI**CRP. No.3630 of 2026
and CMP. No.15766 of 2026**

1.Mrs.Shadja Haas
2.S.Kamaraj

..Petitioner(s)

Vs

K.V.Subbaiah (Dided)

through his LR.s.

1. Lakshmi
2.K.Srinivasulu
3.K.Ragupathy
4.K.Kalavathy
5.K.Sureshbabu

..Respondent(s)

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the impugned, unreasoned and perverse order dated 30 April 2026 passed in I.A. No.7 of 2026 in I.A. No.4 of 2017 in O.S. No.183 of 2007 by the learned Additional District Judge, Chengalpattu by allowing this Civil Revision Petition.

For Petitioner(s): Mr.S.Dharmakkan

For Respondent(s): Mr.B.Naren Kumar



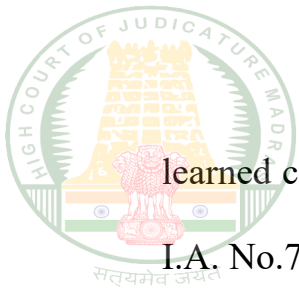
ORDER

The revision petitioners are defendants in O.S. No.183 of 2007. The present revision petition has been filed by the said defendants, aggrieved by the order in I.A. No.7 of 2026 in I.A. No.4 of 2017 in O.S. No.183 of 2007, dated 30.04.2026.

2. I have heard Mr.S.Dharmakkan, learned counsel for the petitioners and Mr.B.Naren Kumar, learned counsel for the contesting respondents.

3. Mr.S.Dharmakkan, learned counsel for the petitioners would strightaway invited my attention to my earlier order in CRP. No.5154 of 2025 and contended that, without appreciating that no *lis* was pending between the parties, the Trial Court has proceeded to allow I.A. No.7 of 2026. According to Mr.S.Dharmakkan, learned counsel for the petitioners, nothing survives for consideration in the suit as according to him, the suit had already been dismissed for non prosecution and the Application filed to restore the suit in I.A. No.1 of 2023 has become infructuous, on account of orders passed on 21.10.2024, allowing I.A. Nos.2 to 5 of 2023, in and by which, the exparte orders passed in I.A.No.340 of 2013 and I.A. No.4 of 2017 were set aside.

4. Mr.Dharmakkan, learned counsel for the petitioners would also bring to my notice the E.Court status with regard to I.A. No.1 of 2023, to fortify his submissions that the Trial Court has already dismissed I.A. No.1 of 2023 as being infructuous, pursuant to the orders passed in I.A. Nos.2 to 5 of 2023. The



learned counsel for the petitioners would therefore state that the order passed in I.A. No.7 of 2026, impleading the respondents herein as legal representatives of deceased K.V.Subbaiah, in I.A. No.4 of 2017 was an exercise in futility and ought not to have been allowed, which would only reopen closed matters and foment further litigation between the parties.

5. Mr.Dharmakkan, learned counsel for the petitioners would also rely on the decision of the Hon'ble Supreme Court in *Shipping Corporation of India Limited Vs. Machado Brothers and others*, reported in (2004) 11 SCC, 168, and *Kanwar Singh Saini Vs. High Court of Delhi*, reported in (2012) 4 SCC 307.

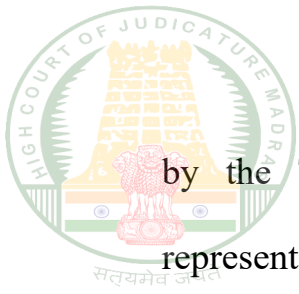
6. Per contra, Mr.B.Naren Kumar, learned counsel appearing for the contesting respondents would state that the Trial Court has only followed the directions issued by me in the earlier Civil Revision Petition viz., CRP. No.5154 of 2025, granting liberty to the legal heirs of the plaintiff to get themselves impleaded in I.A. No.4 of 2017. According to the learned counsel for the respondents, the Trial Court has not committed any error or infirmity warranting interference in revision.

7. I have carefully considered the submissions advanced by the learned counsel on either side and I have also gone through the records, keeping in mind, the earlier order passed by me in CRP. No.5154 of 2025.



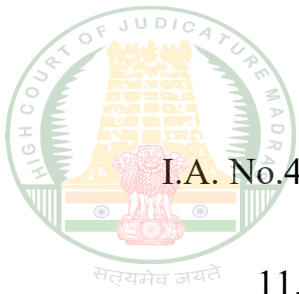
8. Though it was contended by Mr.Dharmakkan, learned counsel for the petitioner in CRP. No.5154 of 2025, that I.A. No.1 of 2023, has become infructuous and nothing survives for consideration, I did not give a seal of approval to the said arguments advanced by the learned counsel for the petitioners. I only proceeded to held that I.A. No.6 of 2025 was to be struck of, at the same time, giving liberty to the legal heirs of the plaintiff to take out appropriate applications to implead themselves in I.A. No.4 of 2017, besides also impleading the second defendant, revision petitioner in CRP. No.5154 of 2025 in I.A. No.4 of 2017. The Trial Court rightly struck of I.A. No.6 of 2025 and allowed the application filed by the Legal Representatives of the plaintiff seeking their impleadment in I.A. No.4 of 2017.

9. The argument of Mr.Dharmakkan, learned counsel for the petitioners is very fanciful. According to the learned counsel for the petitioners, when the Trial Court had allowed I.A. Nos. 2 to 5 of 2023, on 21.10.2024, the entire *lis* came to a grinding halt. I am unable to accept such contention, for the simple reason that it was only the exparte orders that were passed in I.A. No.340 of 2013 and I.A. No.4 of 2017, which were set aside. It does not mean or indicate that I.A. No.340 of 2013 and I.A. No.4 of 2017, have been dismissed by setting aside the exparte orders. Fresh enquiry was necessitated in these Interlocutory Applications in the presence of the revision petitioners herein and as directed in the order in CRP. No.5154 of 2025. This exercise has been rightly carried out



by the Trial Court, by entertaining the Application filed by the legal representatives of the plaintiff in I.A. No.7 of 2026, seeking to implead themselves in I.A. No.4 of 2017, by virtue of the order in I.A. Nos.2 to 5 of 2023. I.A. No.4 of 2017 has to now be re-argued and decided afresh, after hearing all the parties concerned, subject to order in I.A. No.4 of 2017, I.A. No.1 of 2023, the restoration application will have to be accordingly taken up and decided. Therefore, I am unable to see any merit in the arguments of Mr.Dharmakkan, learned counsel for the petitioner that there is no *lis* that survives between the parties. The Trial Court has rightly impleaded the legal representatives of the deceased/plaintiff and necessarily, I.A. No.4 of 2017, which was initially allowed exparte on 08.02.2023 and subsequently, set aside on 21.10.2024, will have to be enquired into and disposed of on merits.

10. I.A. No.1 of 2023, was numbered only consequent to I.A. No.340 of 2013 and I.A. No.4 of 2017 being allowed exparte. The legal representatives of the plaintiff cannot be deprived of an opportunity to pursue the remedy that was sought for by the original plaintiff. Further, though the Trial Court had recorded that I.A. No.1 of 2023, had become infructuous on account of the orders passed in I.A. No.340 of 2013 and I.A. No.4 of 2017 being recalled on 21.10.2024, it does not put an end to the remedy available to the plaintiffs/plaintiffs' legal representatives. The restoration of the suit will now depend upon the fresh enquiry that is contemplated in I.A. No.340 of 2013 and

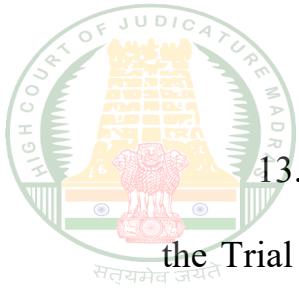


I.A. No.4 of 2017.

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11. Coming to the decisions that had been relied on by the learned counsel for the petitioners, Mr.Dharmakkan, I do not have any quarrel with regard to the ratio laid down by the Hon'ble Supreme Court in *Shipping Corporation of India Limited* and *Kanwar Singh Saini's* case (referred herein supra), where it has been held by the Hon'ble Supreme Court that Interlocutory orders will not survive after original proceedings come to an end. However, the interpretation that is sought to be given by the petitioners that on 21.10.2024, I.A. Nos. 2 to 5 of 2023 being allowed, the entire lis comes to an end is fallacious. Orders passed in I.A. No.343 of 2013 and I.A. No.4 of 2017, being exparte orders were set aside, which only leads to the irrefutable conclusion that the said I.A. Nos.340 of 2013 and I.A. No.4 of 2017 will have to be enquired into afresh by the Trial Court. Therefore, the petitioners cannot fall back on the Trial Court recording that I.A. No.1 of 2023, has been dismissed as infructuous, which may in fact have to be reopen subject to orders that may be passed in I.A. Nos.4 of 2017 and I.A. No.340 of 2013.

12. In such view of the matter, the Trial Court was perfectly in order in impleading the legal representatives of the deceased/plaintiff by allowing I.A. No.7 of 2026 by order dated 30.04.2026 and there is no infirmity in the order of the Trial Court warranting interference in revision.



13. In the light of the above, this Civil Revision Petition is **dismissed** and the Trial Court is directed to dispose of I.A. No.4 of 2017, considering that it has been pending close to 10 years now, expeditiously and in any event, within a period of eight (8) weeks from the date of receipt of the copy of the order. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

24-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RKP

To

The Additional District Judge, Chengalpattu.



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CRP No.3630 of 2



P.B.BALAJI, J.

RKP

Pre-delivery Order in
CRP. No.3630 of 2026
and **CMP. No.15766 of 2026**

24-07-2026