

**A.Nos.2232 and 2233 of 2017
in C.S.No.748 of 2007**

P.KALAIYARASAN, J

These two applications have been filed (1) to implead the petitioners 1 to 6 as defendants 2 to 7 as legal representatives of Mohanakrishnan, the sole defendant in the suit in C.S.No.748 of 2007 and (2) to permit the petitioners for withdrawal of Rs.25,17,000/- deposited on 03.04.2010.

2. It is averred in the application that the suit for specific performance was filed by the respondent herein against the defendant Mohanakrishnan and the same was decreed by this Court on 03.03.2010. As per the decree in this suit, the sale deed was executed by this Court in favour of the plaintiff and the sale consideration of Rs.25,17,000/- was also deposited on 03.04.2010. The first petitioner is the wife of the defendant Mohanakrishnan and the petitioners 2 to 6 are their daughters. The defendant Mohanakrishnan was missing since 14.06.2005 and the first petitioner gave a complaint to the police on 06.05.2006 and case was also registered in Cr.No.383 of 2006 in D3 Ice House Police Station. The police also issued a Certificate of Missing, dated 19.11.2016 since they were not able to trace. Therefore, the defendant Mohanakrishnan has to be presumed under law as deemed to have died.

3. It is further averred that under the above said circumstances, the petitioners are to be impleaded as legal representatives of the defendant Mohanakrishnan and the amount deposited in the Court is to be permitted to be withdrawn by them.

4. The respondent / plaintiff also appeared before this Court and expressed no objection for allowing the applications. The learned counsel appearing for the plaintiff also made an endorsement saying no objection for allowing both the applications.

5. In the typed set, the copy of the certificate issued by the Inspector of Police, D3 Ice House Police Station, Chennai, dated 19.11.2016 has been filed. As per this certificate, the petitioner herein gave a complaint about missing of her husband M.Mohanakrishnan and a case was registered in Cr.No.383 of 2006 under Section man missing and the missing man has not been traced till 19.11.2016. There is no quarrel with respect to the legal heirs of Mohanakrishnan. The copies of Birth Certificates of daughters, namely the petitioners 2 to 6 have also been filed in the typed set. The copy of the Judgment and Decree in this suit namely, C.S.No.748 of 2007 has also been filed.

6. In the suit for specific performance filed by the respondent herein as against Mohanakrishnan, this Court decreed the suit. As per the decree, the respondent / plaintiff deposited an amount of Rs.25,17,000/- and sale deed was executed by this Court on 28.06.2011. The petitioners are legal representatives of Mohanakrishnan and they are entitled to the said amount. Therefore, this Court is of the considered view that both the applications are to be allowed.

7. In fine, both the applications are allowed. The sum of Rs.25,17,000/- (Rupees Twenty Five Lakhs Seventeen Thousand only) is ordered to be paid to the petitioners in equal shares.

07-06-2017

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