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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.P. (MD) .Nos.1443 to 1445 of 2017 and

M.P. (MD) No.1 of 2014

and

C.R.P. (MD) SR No.1204 of 2014

V.Nallathambi

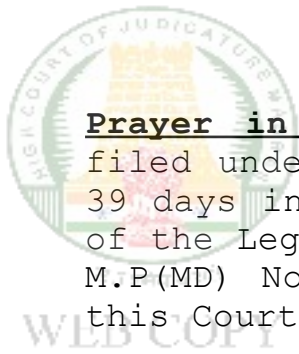
...Petitioner/Petitioner/Petitioner

Vs.

- 1.V.Nagarajan
- 2.P.Rajasekaran
- 3.R.Thiyagarajan
- 4.E.Sarasu
- 5.Janab Iqbal
- 6.R.Pandian
- 7.R.V.Manivannan
- 8.Geep Thiyagarajan
- 9.Janab TAH Abdul Hameed
- 10.R.Swaminathan
- 11.J.Karthikeyan
- 12.Managing Director,
Tata Finance Limited, Chembur, Mumbai.
- 13.Ashokan
- 14.Ayyappan
- 15.Janab Abdul Pari
- 16.M.Elamaran
- 17.Forema , Mahamagam chits , Kumbakonam.
- 18.Branch Manager
Canara Bank
Main Branch
Big Street,
Kumbakonam.

(no notice be sent to Respondent 2-18)

- 19.N.Krishnaveni
 - 20.N.Karthik
 - 21.Minor N.Ajai Kumar
 - 22.Minor N.Ramesh
- (No21 and 22 being minors represented
by their mother and natural guardian
namely Krishnaveni.)
(Respondents/Proposed Respondent No.19-22,
(LRs) of deceased Nagarajan/1st Respondent)



Prayer in C.M.P(MD)No.1443 of 2017 Civil Miscellaneous Petition filed under section 5 of Limitation Act, to condone the delay of 39 days in filing the Legal Heirs Application to bring on records of the Legal Heirs of the deceased 1st respondent/petitioner in the M.P(MD) No.1 of 2014 in C.R.P.(SR) (MD) No.1204 of 2014 on file of this Court.

Prayer in C.M.P(MD)No.1444 of 2017 Civil Miscellaneous Petition filed under Order 22 Rule 9 of Civil Procedure Code, to set aside the order of abetment caused on the death of the 1st respondent/petitioner on 05.08.2016 in the above Civil Revision Petition in M.P(MD) No.1 of 2014 in C.R.P(SR) (MD) No.1204 of 2014 on the file of this Court.

Prayer in C.M.P(MD)No.1445 of 2017 Civil Miscellaneous Petition filed under Order 22 Rule 4 of Civil Procedure Code, to bring on record of the Legal Heir of the deceased (1) N.Krishnaveni Wife of first respondent (2) N.Karthik son of first respondent (3) Minor N.Ajay Kumar son of first respondent (4) Minor N.Ramesh s/o first respondent and petitioner further submit that the 3rd and 4th legal heirs being minors are represented by their mother N.Krishnaveni who is wife of deceased first respondent in the above M.P(MD) No.1 of 2014 in C.R.P(SR) (MD) No.1204 of 2014 on the file of this Court.

PRAYER IN M.P(MD) No.1 of 2014 in C.R.P(SR) (MD) No.1204 of 2014:

To condone the delay of 263 days in filing the above revision against the fair and decreetal Order dated 16.11.2012 made in I.P.No1/2004 on the file of Principal District Judge, Thanjavur.

Prayer in C.R.P(MD) SR No.1204 of 2014 Civil Revision Petition filed under Section 115 of Civil Procedure Code, to call for the records relating to the impugned fair and decreetal order dated 16.11.2012 made in IP No.1 of 2004 on the file of Principal District Judge, Thanjavur, set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.B.Jameel Arasu

ORDER

The Revision Petition is directed against the order of the Insolvency Court declaring one Nagarajan as insolvent based on the evidence let in by the parties.

2.This revision petitioner was arrayed as 3rd defendant in the Insolvency Petition. Aggrieved by the order of the Insolvency Court declaring one Nagarajan as insolvent, the present revision has been preferred in 2014.



3. Pending revision petition which is in SR stage for compliance of defects pointed out, the insolvent arrayed as first respondent died. Therefore, the present application is filed to bring the legal heirs of the deceased insolvent on record. If at all the revision petitioner has any grievance to recover the money advanced to the deceased insolvent, it can be only subject to the outcome of the insolvency proceedings. The insolvency proceedings in this case ended declaring Nagarajan as insolvent.

4. As per the insolvency Petition, the revision petitioner stood as guarantor for purchase of the Car by the deceased insolvent. There is no evidence let in by the revision petitioner to show that the deceased insolvent had any property worth to claim. While so, after the death of insolvent, he cannot claim against the legal heirs of the deceased insolvent. Since the insolvent himself died, the order passed in the insolvency proceedings has become final. Hence, the Civil Miscellaneous Petitions are dismissed. No costs. Consequently, the Civil Revision Petition is rejected at the SR stage itself.

Sd/-

ASSISTANT REGISTRAR (Records)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

The Principal District Judge,
Thanjavur.

+1 CC TO MR.B.JAMEEL ARASU, ADVOCATE, SR NO.53521

SM/CP

MAS/MR:08.05.2017:3P-3C

C.M.P. (MD) .No.1443 to 1445 of 2017 and
M.P. (MD) No.1 of 2014
and
C.R.P.No.SR1204 of 2014
20.04.2017