



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.06.2017

CORAM

WEB COPY

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

C.R.P (PD) (MD) No.561 of 2017  
and  
C.M.P. (MD) No.2571 of 2017

1.Ponnaiah  
2.Soundaram  
3.Ganeshan  
4.Sethu  
5.Saguntala .. Petitioners/R4 to R7/R4 to R7/Defendants

Vs.

1.Natarajan (Died) ...R1 & R2/Petitioners/Petitioners/Plaintiff  
2.Durairaj  
3.Marudhanayagam ...R3/R1/R1/Defendant  
4.The Revenue Divisional Officer,  
Dindigul.  
5.The District Collector,  
Dindigul. .. R4 & R5/R2 & R3/R2 & R3/Defendants

R1 Died. Memo in USR No.2249/2017 dated 24/4/17 is recorded, vide court order dated 09.06.2017 made in CRP.561/2017.

**Prayer** :Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 29.09.2016 made in I.A.No.392 of 2016 in I.A.No.588 of 2014 in O.S.No.1388 of 2004 on the file of the Principal District Munsif, Dindigul.

For Petitioner : Mr.H.Lakshmi Shankar  
For Respondents : No Appearance

### ORDER

This revision petition is directed to against the order passed in I.A.No.392 of 2016 in I.A.No.588 of 2014 in O.S.No.1388 of 2004 on the file of the Principal District Munsif, Dindigul, allowing the petition to implead the legal representatives of deceased first plaintiff.

2.The learned counsel appearing for the revision petitioners submitted that the impugned order passed by the Court below is erroneous and illegal both on facts and law. The earlier



applications in I.A.Nos.335 and 745 of 2015 filed to implead the legal representatives of the deceased first plaintiff in the suit and to set aside the abatement were dismissed. Therefore, when the suit has already been dismissed as abated as against the first plaintiff, question of impleading the legal representatives of the deceased plaintiff does not arise in the Interlocutory application and the subsequent applications to implead the legal representatives are not maintainable. But, by the impugned order, the suit which has been dismissed earlier is revived indirectly.

3.Perusal of the records reveals that the suit was dismissed as abated as against the first plaintiff and the efforts taken to set aside the abatement has been negatived by the Court as early as on 29.04.2015, vide order in I.A.Nos.335 and 745 of 2015. While so, allowing the subsequent applications to implead the legal representatives of the deceased party, in the pending Interlocutory application, whose claim has already been dismissed as abated in the main suit is only a futile exercise and it will lead to unwanted confusion. The Trial Court has lost sight of its own earlier order dismissing the application to set aside the abatement caused due to the death of the first plaintiff. When a person is not a party in the main suit and steps to implead the legal representatives have already been negatived, there cannot be a contrary order in the pending Interlocutory application.

4.Therefore, this Court holds that the impugned order challenged in this revision petition is liable to be set aside. Accordingly, the order of the Trial Court in I.A.No.392 of 2016 and in I.A.No.588 of 2014 in O.S.No.1388 of 2004 dated 29.09.2006 is set aside. This Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal District Munsif,  
Dindigul.
- 2.The Revenue Divisional Officer,  
Dindigul.
- 3.The District Collector,  
Dindigul.

+1cc to Mr.H.Lakshmi Shankar Advocate in SR. NO.60033

mrn/mm

JS/KP/SAR.1/22.06.2017/2P-5C

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and**

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