

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP (PD).No.86 of 2018

and

C.M.P.No.407 of 2018

Vanajakshi

.. Petitioner

Vs.

R.Syed Sulaiman Saheb (Deceased)

- 1.Anwar Basha,
- 2.Saleem,
- 3.Saeinsha,
- 4.Akram,
- 5.Akmal,
- 6.Ali,
- 7.Reshma
- 8.Rahamath Bee,
- 9.L.Narayana Reddy,
- 10.D.Krishnamoorthy

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the Docket Order passed in I.A.No.392 of 2017 in O.S.No.54 of 2016 dated 29.11.2017 on the file of the District Munsif Court at Hosur, Krishnagiri District.

For Petitioner : Mr.C.Meena

ORDER

This Civil Revision Petition has been filed against the Docket

<http://www.judis.nic.in> Order passed in I.A.No.392 of 2017 in O.S.No.54 of 2016 dated 29.11.2017 on the file of the District Munsif Court at Hosur, Krishnagiri District.

2.The learned counsel for the revision petitioner would submit that the first plaintiff died on 13.05.2016. Respondents 1 to 7 are already shown as legal heirs of deceased first plaintiff. Respondent 8 is the wife of the deceased 1st plaintiff. Respondents 9 and 10 are defendants 1 and 3. The petitioner herein is the 2nd defendant. The plaintiffs have filed a petition to bring the legal heirs of deceased first plaintiff viz., Syed Sulaiman Saheb. But, they have not filed the petition in time i.e. Within 90 days from the date of death of the 1st plaintiff. Hence, they have filed a petition before the District Munsif, Hosur, to condone the delay of 242 days to bring on record the legal heirs of the deceased first plaintiff. The second respondent had filed a counter before the Trial Court for the above said application. According to the learned counsel for the Revision petitioner, though he filed a counter, the Trial Court has not considered his objections made in the counter and allowed the petition without any reference. Aggrieved by the order of the Trial Court, the petitioner has come before this Court by filing this revision petition.

3.Despite service of notice, none appeared on behalf of the respondents. Therefore, the Registry has printed the name of the respondents. Today also, none appeared on behalf of the respondents.

4.Heard Ms.C.Meena, the learned counsel for the petitioner and perused the records.

5.The learned counsel for the petitioner submitted that the 1st

plaintiff died on 13.05.2016. The respondents 1 to 7 are the legal representatives of the 1st plaintiff. Respondent 8 is the wife of the deceased 1st plaintiff and proposed party to the I.A.No.392 of 2017. Except 8th respondent, respondents 1 to 7 are already on record in the original suit itself. The main objection raised by the learned counsel for the petitioner is that the deceased Syed Sulaima Saheb is the father of the 7th plaintiff and they should have filed the application within the limitation period of 90 days as he was well aware of the pendency of the suit. But, he had failed to do so and the application was filed after a delay of 242 days. Therefore, the reasons stated for the delay in filing the application to bring the 8th respondent in the suit are not sufficient.

6. On a perusal of the records, it is seen that the 1st plaintiff had died on 13.05.2016. Already respondents 1 to 7 are on record. Only the 8th respondent is not a party to the suit. Therefore, impleading of 8th respondent will not cause any prejudice to the rights of the revision petitioner.

7. Though the learned counsel for the petitioner would submit that the reason stated in the affidavit are not sufficient, I do not find any error in the impugned order of the Trial Court. Secondly, the Trial Court has taken a lenient view, even though the length of the delay is not a

P.VELMURUGAN,J.,

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matter. Therefore, impleading of the 8th respondent would not cause any prejudice to the right of the petitioner, the trial Court has allowed the petition. I do not find any reason to interfere with the order passed by the learned trial Judge. Hence, the order passed by the learned trial Judge in I.A.No.392 of 2017 in O.S.No.54 of 2016 is confirmed.

8.In the result, this Civil Revision Petition shall stand dismissed.

No costs.

02.04.2018

Index:yes/no

Internet:yes

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To

The District Munsif at Hosur,
Krishnagiri District.

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