



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD).No.1062 of 2018 and
C.M.P. (MD) Nos.4616 & 5411 of 2018

S.Rajakumari

... Revision petitioner/
Respondent/
2nd Defendant

Vs.

1. A.Leela
2. A.Ramesh Babu
3. A.Punitha
4. A.Nirmal

... Respondents/Petitioners/
Plaintiffs

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order of arrest warrant dated 26.04.2018 made in E.P.No.157 of 2017 in O.S.No.541 of 1998 on the file of the Principal District Munsif, Thirunelveli District.

For Petitioner : Mr.R.Sureshkumar

For Respondents : Mr.A.D.Ganeshamoorthi

O R D E R

The second defendant in O.S.No.541 of 1998 on the file of the Principal District Munsif, Thirunelveli, is the Revision petitioner herein. The said suit was filed by respondents 1 to 4 herein seeking the relief of declaration that the plaintiffs alone are entitled to all the welfare benefits rendered by the Government for the family members of an ex-serviceman. The Revision petitioner herein was sought to be restrained from claiming any benefit as a family member of the first defendant. The suit was decreed on 01.02.2001. To enforce the said decree, E.P.No.157 of 2017 was filed. The Revision petitioner was set ex-parte and an order of arrest warrant was issued against her. Questioning the same, this Civil Revision petition has been filed.

2. Heard the learned counsel on either side.

<https://hcservices.courts.gov.in/hcservices/>
3. The learned counsel appearing for the Revision petitioner would submit that challenging the said decree, the Revision petitioner has now filed an appeal and it is pending. There has



been delay in filing the appeal.

4. I am of the view that so long as the decree has not been stayed, the Revision petitioner cannot claim any benefit as the family member of Thiru.A.Ananthappan @ Ananthan. However, an order of arrest against the woman cannot be appreciated. The learned counsel appearing for the Revision petitioner submits that she would contest the execution proceedings.

5. In this view of the matter, the order impugned in this Civil Revision petition is set aside. Ex-parte order as against the Revision petitioner herein is also set aside. The Revision petitioner shall appear before the Executing Court in person or through counsel and contest the proceedings in E.P.No.157 of 2017 and the same shall be disposed of on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

6. With these directions, the Civil Revision petition stands allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS-IV)

To

1. The Principal District Munif,
Thirunelveli District.

+1 CC To MR.R.SURESHKUMAR, Advocate SR. NO. 89257

+1 CC To MR.A.D.GANESHA MOORTHY, Advocate SR. NO. 89326

C.R.P.(MD).No.1062 of 2018 and
C.M.P.(MD)Nos.4616 & 5411 of 2018
08.10.2018

PMU

TR/RP/SAR-IV(09.11.2018)2P 4C