



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.2666 of 2016 and
C.M.P. (MD)No.12518 of 2016

1. Bagavathi
2. Velammal
3. Subbiah
4. Murugan
5. Selvam
6. Puthumai Lakshmi

... Petitioners/Proposed party
Respondents 37 to 42

Vs.

1. Dhiraviya Thevar (Died)
Perumal Thevar (Died)
Paramasivam (Died)
2. Lakshmi
3. Ramakrishnan
4. Mani
5. Thamilarasi
6. Mahakrishnan @ Muthiah
7. Sundaravel @ Chandran
8. Thoppiah
9. Narayana Thevar
10. N.E.P.C. Milson Company Ltd.,
36, Wallajah Road,
Chennai.
11. Sathyamoorthy,
Managing Director,
Sudharson Spinning Mills Ltd.,
128, Bhavani Road, Erode.
12. Palanichamy
Muthammal (died)
13. Vijaya
14. Paul
15. Vellapandi
16. Subbammal
17. Subbian
18. Lakshmi



19. Ganesan
20. Sankarammal
21. Paramasivam
22. Nalarajan
23. Thayammal
24. Saraswathi
25. Ponnammal
26. Lakshmi
27. Subbiah
28. Madakkan
29. Kosalai
30. Esakkiappan
31. Vetrivel
32. Muthukrishnan
33. Andiappan
34. Rajakala

... Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the Civil Revision petition by directing the learned District Munsif cum Judicial Magistrate, Boodhapandi to number the I.A. of 2016 SR.No.1521(a) filed to implead the legal heirs of the second defendant in I.A.No.177 of 2012 in O.S.No.292 of 2012.

For Petitioners : Mr.M.Md.Ibrahim Ali

For R-1 : C.Dhanaseelan

For R-2 to R-5, R-10

R-16, R-17, R-22,

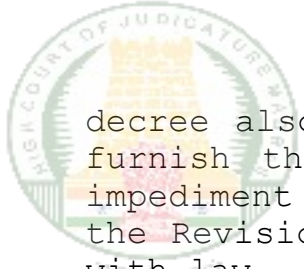
R-25, R-26, R-29 &

R-31 to R-34 : No appearance.

O R D E R

O.S.No.120 of 1996 on the file of the learned II Additional District Munsif, Nagercoil, was filed by one Thiraviya Thevar, seeking the relief of partition and separate possession. The said Thiraviya Thevar was shown as the second defendant in the said suit. It appears that he was set ex-parte on 05.03.1996. Preliminary decree came to be passed. Thereafter, final decree was also passed on 23.08.2016. The grievance of the Revision petitioners is that the said Paramasivam Thevar died on 08.10.2015 and that therefore, the decree passed against him should be construed as nullity. They had filed an application for setting aside the ex-parte decree made in the final decree proceedings. They filed a petition to condone the delay. But then, the Court below declined to number the said application. Aggrieved by the same, this Civil Revision petition has been filed.

2. The learned counsel appearing for the contesting respondents pointed out that the said Paramasivam Thevar remained ex-parte, even at the preliminary decree stage. But then, it is true that the preliminary decree was passed on 21.04.2004. The question is whether the said Paramasivam Thevar was set ex-parte in the final



decree also. But the learned counsel on either side are unable to furnish the exact details. Be that as it may, there can be no impediment for numbering the said interlocutory application filed by the Revision petitioners herein and giving a disposal in accordance with law.

3. Therefore, this Court directs the learned District Munsif, Boothapandi, to number the Interlocutory application filed by the Revision petitioners, if it is otherwise in order and dispose of the same on merits.

4. The Civil Revision petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar (CS-I)

To

The District Munsif cum Judicial Magistrate,
Boothapandi

C.R.P. (MD) .No.2666 of 2016 and
C.M.P. (MD) No.12518 of 2016
14.09.2018

pmu

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