



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1770 of 2018 and
C.M.P.(MD)No.7734 of 2018

1. G.Ramuthai @ Selvi
2. R.J.Ajith Kumar
3. J.Jayanthi Priya ... Petitioners/Respondents/
Respondents

Vs.

1. Vasantha Rani ... 1st Respondent/Petitioner/
Appellant

2. The Managing Director,
Syndicate Bank, Head Office,
Manipal, Karnataka State.

3. The Deputy General Manager,
Syndicate Bank, Regional Office,
No.105-106, Ponnurangam Salai West,
R.S.Puram, Coimbatore.

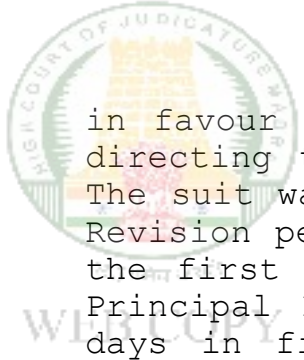
4. The Senior Branch Manager,
Syndicate Bank,
Uthagamandalam Branch,
Ooti. ... Respondents 2 to 4/
Respondents 4 to 6/
Respondents 2 to 4

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated in 18.06.2018 in I.A.No.7 of 2018 in unnumbered A.S.No. of 2018, passed by the learned Principal District Judge, Madurai.

For Petitioners : Mr.G.Rajan
For R-1 : Mr.R.Saravanan
For R-3 : Mr.Pala Ramasamy
For R-4 : No appearance.

O R D E R

The Revision petitioners are the plaintiffs in O.S.No.768 of 2010 on the file of the III Additional Sub Court, Madurai. It is a suit for declaration that nomination made by the deceased Jeyakumar



in favour of the first respondent herein is null and void and for directing the other defendants to disburse a sum of Rs.5,53,397/-. The suit was decreed on 27.11.2015. To execute the said decree, the Revision petitioners filed E.P.No.147 of 2016. In the meanwhile, the first respondent herein filed first appeal before the learned Principal District Judge, Madurai. But there was a delay of 242 days in filing the said appeal. The Court below by order dated 18.06.2018 allowed I.A.No.7 of 2018 condoning the said delay. Challenging the said order, the Civil Revision petition has been filed.

2. After filing of this Civil Revision petition, the first respondent herein passed away. Since her legal representatives are already on record, there is no need to take out any separate application.

3. Admittedly the first respondent Vasantha Rani is the sister of the late Jeyakumar. She was only a nominee. The marriage between the first petitioner and Jeyakumar has not been dissolved in the manner known to law. Therefore, the said Jeyakumar could not have nominated a member out of the family. The trial Court rightly decreed the suit. In any event, the function of the nominee is only to disburse the terminal benefits in the proportion stipulated by the statute. She is only in the position of a trustee. Therefore, the first appeal filed by her was not maintainable. The Court below ought to have taken note of this aspect of the matter. The first respondent herein has also not given sufficient reasons explaining the delay. Therefore, looked at from any angle, the order impugned in this Civil Revision petition is unsustainable.

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

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Principal District Judge,
Madurai.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai. 2Copies

- 1 CC TO Mr.G.Rajan , ADVOCATE IN SR No.88415.
- + 1 CC TO Mr.Pala Ramasamy , ADVOCATE IN SR No.88133.
- PMU
- DS SKN SAR3 20 11 2018 2P 6C