



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .Nos.1997 & 2083 of 2018 and
C.M.P. (MD) No.9213 of 2018

C.R.P. (MD) No.1997 of 2018

1. Chinnappan
2. Palaniyandi (Died)
3. Vinoth
4. Lakshmi

... Petitioners/Plaintiffs

Vs.

1. Muthukaruppan
2. Veerasamy

... Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order passed in O.S.No.127 of 2010, dated 29.09.2017 on the file of the District Munsif Court, Kulithalai and set aside the same by allowing this Civil Revision petition.

C.R.P. (MD) No.2083 of 2018

1. Chinnappan
Palaniyandi (Died)
2. Vinoth
3. Lakshmi

... Petitioners/Plaintiffs

Vs.

1. Muthukaruppan
2. Veerasamy

... Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order passed in I.A.No.312 of 2016 in O.S.No.127 of 2010, dated 15.09.2017 on the file of the District Munsif Court, Kulithalai and set aside the same by allowing this



Civil Revision petition.

(in both petitions)

For Petitioners: Mr.N.Mohideen Basha

For Respondents: Mr.AN.Ramanathan

WEB COPY

O R D E R

O.S.No.127 of 2010 was filed by four persons before the District Munsif Court, Kulithalai, seeking the relief of declaration and recovery of possession. The suit came to be dismissed for default on 11.06.2012. It was subsequently restored on an application having been filed in that regard. But in the meanwhile, the second plaintiff Palaniyandi had passed away. Without making any reference to the death of the said Palaniyandi, Interlocutory application was filed, as if all the four plaintiffs are alive. Thereafter, after the suit was restored, an application was taken out for bringing the legal heirs of the said Palaniyandi on record. The Court below took the view that the plaintiffs have not approached the Court with clean hands and dismissed the said application filed by them. Subsequently, the suit was also closed. Questioning both the orders in question, these Civil Revision petitions have been filed.

2.Heard the learned counsel on either side.

3.The learned counsel appearing for the respondents reiterated the factual developments that had taken place in this case and wanted this Court to sustain the orders passed by the Court below. Though the conduct of the Revision petitioners is to be deprecated, I am of the view that the interest of justice require that the Revision petitioners are allowed to prosecute the suit to their logical conclusion. However, the Revision petitioners have to be put on terms, in view of their conduct.

4.The learned counsel appearing for the Revision petitioners on instructions submitted that they will pay a sum of Rs.4,000/- directly to the first defendant Muthukaruppan. This amount shall be paid within a period of two weeks from the date of receipt of a copy of this order.

5.The orders impugned in these Civil Revision petitions are set aside. The suit shall stand restored to file. The legal heirs of the second plaintiff shall be deemed to have been brought on record in the main suit.

6. Since the suit is of the year 2010, the Court below is directed to dispose of O.S.No.127 of 2010 within a period of six months from the date of receipt of a copy of this order.



7. The Civil Revision petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-III)

To

1. The District Munsif,
Kulithalai.

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

+ 1 CC TO MR.N.MOHIDEEN BASHA, ADVOCATE IN SR NO.87207

+ 1 CC TO MR.AN.RAMANATHAN, ADVOCATE IN SR NO.87118

PMU

BU/PM/SAR-III : 31.10.2018 : 3P/6C

C.R.P. (MD) .Nos.1997 & 2083 of 2018 and
C.M.P. (MD) No.9213 of 2018
26.09.2018