

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2019

CORAM:

THE HON'BLE MR. JUSTICE M.GOVINDARAJ**C.R.P.(PD) No. 415 of 2019**

and

C.M.P.No. 2785 of 2019

C.N. Munusamy ... Petitioner

Vs.

Radhakrishnan (died)

1. P.Kandasamy

2. Sathiya

3. R.Kamala

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 11.12.2018 made in I.A.No.51 of 2018 in O.S.No.162 of 2014 on the file of the Court of District Court cum Fast Track, Mahila Judge, Namakkal.

For Petitioner : Mr.Pratap C.E.

For Respondents : Mr.J.Ramakrishnan for
R2 and R3

R1- No appearance

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ORDER

The petitioner filed a suit for permanent injunction against the respondents in O.S.No.162 of 2014. During the pendency of the suit, on 10.5.2017, the first respondent died. The 2nd respondent has given the particulars of the legal heirs of the deceased 1st respondent on

<http://www.judis.nic.in> 11.7.2017 to the petitioner, but the petitioner has failed to bring the legal

heirs on record within the time specified for the same. On the other hand, he filed a petition under Order 1, Rule 10 CPC for impleading the legal heirs as parties to the suit. The trial Court finding the wrong procedure adopted by the petitioner has dismissed the same. Aggrieved over the same, the petitioner is before this Court.

2. Admittedly, the petitioner should have brought the legal heirs on record within 90 days from the date of information. Admittedly there is a delay in filing the petition and quoting the correct provision of law.

3. When the matter is taken up for hearing, counsel for both sides would submit that the petitioner should have filed a petition to condone the delay in filing the petition to bringing the legal heirs on record and also to set aside the abatement.

4. Learned counsel for the petitioner would submit that he is prepared to file a proper petition before the Court.

5. Considering the facts and circumstances of the case, liberty is granted to the petitioner to file appropriate petition before the Court under proper provisions of law.

6. On such presentation of the petition, the trial court is directed to consider the same and pass orders in accordance with law and proceed with the trial.

7. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected C.M.P.No.2785 of 2019 is closed.

11.07.2019

Speaking Order/Non Speaking Order
Index : Yes/No
msr

To

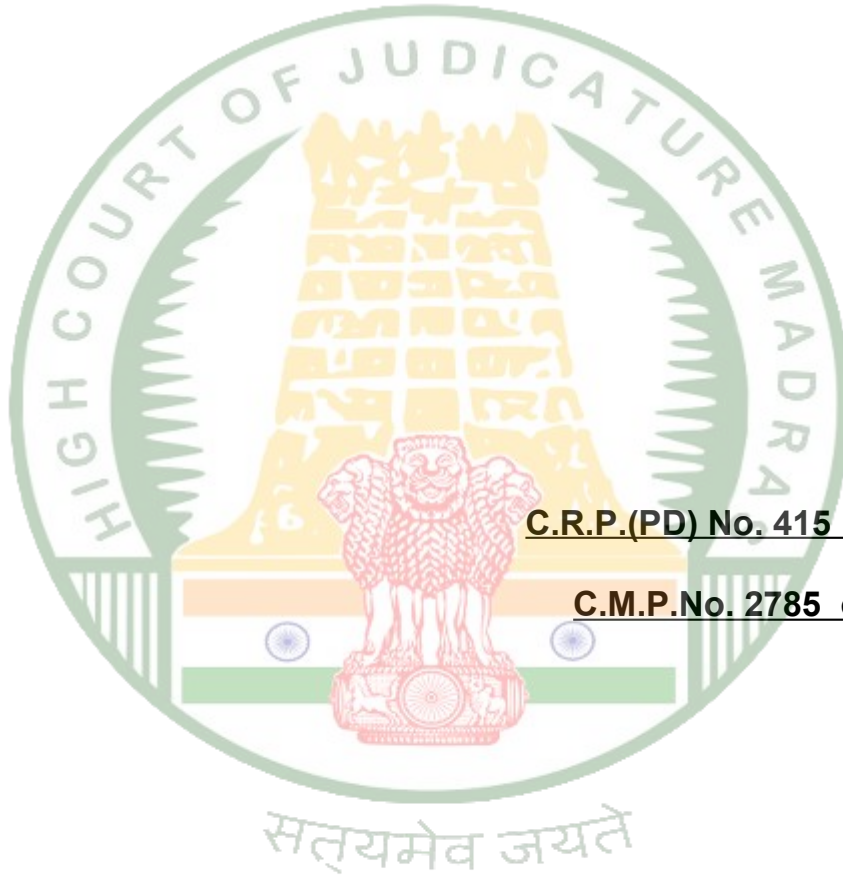
The Mahila Judge, Namakkal.



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M. GOVINDARAJ,J.

msr



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