

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD).No.2500 of 2012  
and  
MP.No.1 of 2012

Pukraj Jain (Died)

1.Sikkarchand

2.Suresh Kumar

3.Naresh Kumar

4.Kamal Chand

5.Kamalabai

6.Lalitha

7.Prabha

8.Nirmala

9.Usha

... Petitioners

vs.

1.Sathappa Chettiar

2.Muthukumaran

3.Kanthabai

4.Nirmalchand

5.Dinesh Kumar

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 29.09.2011 in I.A.No.248 of 2011 in O.S.No.41 of 2005 on the file of the learned Sub Court, Chidambaram.

For Petitioners : Ms.S.Viji

for Mr.S.Y.Masood

For Respondents : Ms.G.Srividya - R3

No appearance - R1, R2, R4 & R5

**ORDER**

This Civil Revision Petition has been filed against the fair and decreetal order dated 29.09.2011 made in I.A.No.248 of 2011 in O.S.No.41 of 2005 on the file of the learned Sub Court, Chidambaram.

सत्यमेव जयते

2. Heard, the learned counsel appearing for the petitioner. Ms.G.Srividya, learned counsel appearing for the third respondent. No appearance on behalf of the respondents 1, 2, 4 and 5.

2. The petitioners herein are the legal heirs of the original plaintiff in O.S.No.41 of 2005 on the file of the learned Sub Court, Chidambaram, for recovery of money on promissory note against the Respondents herein. During the pendency of the suit, Pukraj Jain died intestate leaving behind the petitioners 1 to 9 along with the respondents 3, 4 and 5 as legal representatives of the deceased and they have filed an application to condone the delay of 24 days under Section 5 of the Limitation Act to bring the legal representatives on record. The trial Court awarded a sum of Rs.2,000/- to be paid to each defendants 1 & 2 and had complied with the conditional order of cost made in I.A. to bring legal representatives, was allowed. However, only the present petitioner was impleaded and in respect of the petitioners 2 to 9 and the respondents 3, 4 & 5 were not ordered to be impleaded, on the ground from the application has been filed, hence the Civil Revision Petition.

3. The learned counsel appearing for the petitioner would submit that the third respondent is the second wife of the petitioner's father and respondents 4 & 5 are born to the second wife of the petitioner's father. While petitioners 2 to 9 herein are born to the first wife. Hence, I do not

find any reasons assigned by the trial Court justifiable, especially, when one of the legal heirs had filed application to include the legal representatives in the suit. In this view of the matter, Civil Revision Petition is allowed. Order passed in I.A.No.248 of 2011 is set aside and the same shall stand allowed in respect of all the petitioners herein along with respondents 3, 4 & 5 and they have been impleaded as legal representatives of the sole plaintiff in O.S.No.41 of 2005 and the trial Court is directed to conduct the trial and dispose of the same in the manner known to law, within a period of twelve weeks from the date of receipt of copy of this order. It is open to the defendants 1 & 2 to file additional written statement, if any.

4. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.12.2019

mtl

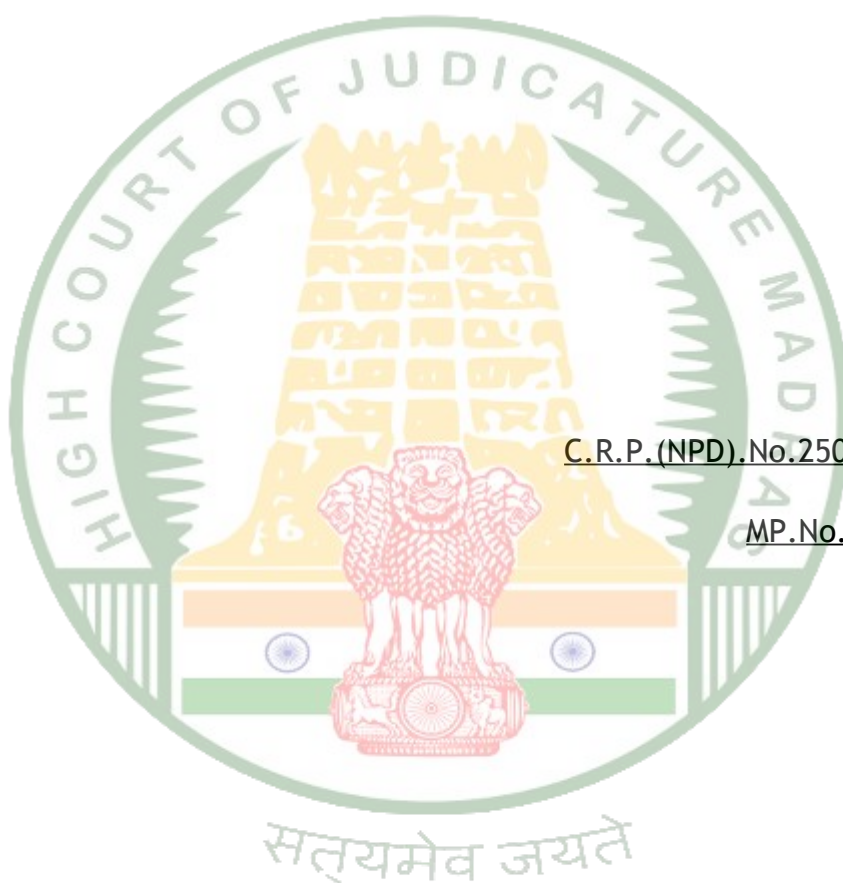
Index: Yes/No  
Speaking/non-speaking order

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**RMT.TEEKAA RAMAN.J,**

mtl



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