



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.R.P (PD) (MD) Nos.1231 and 1223 of 2012

and

M.P. (MD) .No.1 of 2012 in C.R.P. (PD) (MD) .No.1231 of 2012

and

M.P. (MD) .Nos.1 to 4 of 2012 in C.R.P. (PD) (MD) .No.1223 of 2012

In C.R.P. (PD) (MD) .No.1231 of 2012:

- 1.Thangasamy Nadar
- 2.Sathiyaseelan
- 3.Rajan
- 4.Gunaseelan
- 5.Ramar

.. Petitioners / Respondents 1-5/
Defendants 1-5

Vs.

- 1.Anthonysamy
- 2.Gnanasamuthiram
- 3.Rajagopal
- Thangasamy (died)
- 4.Ramasamy Nadar

.. Respondents 1-4 / Petitioners/
Plaintiffs

[Respondents 1-4 for themselves
and as representatives
of Ayakattudhar and Land
Patta holders of Puthukulam Channel,
Meenachipuram, Puthur
Village, Rajapalayam Taluk]

5.Q-857 Mugavoor Agriculturist Co-operative
Society Limited rep., by its Special Officer,
Mugavoor.

- 6.Thangamani Nadar
- 7.Duraisamy Nadar

.. Respondents 5-7 /
Respondents 6-8 / Defendants 6-8

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and final order, dated 07.03.2012 passed in I.A.No.1835 of 2011 in O.S.No.181 of 2006 on the file of the Additional District Munsif Court, Srivilliputhur.



In C.R.P. (PD) (MD) .No.1223 of 2012:

1.Thangasamy Nadar
2.Sathiyaseelan
3.Rajan
4.Gunaseelan
5.Ramar

.. Petitioners / Respondents 1-5/
Defendants 1-5

Vs.

1.Gnanasamuthiram
2.Rajagopal
3.Thangachamy
4.Ramasamy Nadar

.. Respondents1-4 / Petitioners/
Plaintiffs

5.Q-857 Mugavoor Agriculturist Co-
operative Society Limited
rep., by its Special Officer,
Mugavoor.

6.Thangamani Nadar
7.Duraisamy Nadar

.. Respondents 5-7 /
Respondents6-8 / Defendants6-8

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and final order, dated 18.09.2009 passed in I.A.No.1728 of 2007 in O.S.No.181 of 2006 on the file of the Principal District Munsif, Srivilliputhur.

In both cases:

For Petitioners	: Mrs.J.Anandhavalli
For Respondents	: Mr.J.Jeyakumar for R1 to R4 Mr. R.Saravananfor R5
For R6 and R7	: No appearance

COMMON ORDER

C.R.P. (PD) (MD)No.1231 of 2012:

This Civil Revision Petition has been filed against the fair and final order passed by the Court below allowing the application filed by the first respondent to substitute himself in the place of the deceased third plaintiff. The suit was initially instituted as a representative suit by the respondents 2 to 4 along with one Thangasamy. The said Thangasamy died during the pendency of the suit and the first respondent wanted to substitute himself in his place. This application has been allowed by the Court below and hence the present Civil Revision has been filed by the petitioners / defendants 1 to 5.



2. The learned counsel for the petitioners submitted that there are four plaintiffs in the suit and the suit has been instituted in representative capacity and therefore, if one of the plaintiffs died, the other three plaintiffs can prosecute the suit and there is no requirement to substitute one more plaintiff in the place of the deceased third plaintiff. The learned counsel further submitted that the Court below did not follow the procedure under Order I Rule 10 of the Civil Procedure Code.

3. It is seen from the records that the Court below has already granted permission to prosecute the suit as a representative suit by an order, dated 04.09.2006 made in I.A.No.1544 of 2009. It is true that there were four plaintiffs and even if one of the plaintiff dies, the other three plaintiffs can proceed further with the suit, since they have not filed the suit for any individual reliefs and the suit itself is a representative suit. The Court below found that the first respondent being substituted in the place of the deceased third plaintiff will not put the defendants to prejudice, since ultimately, the Court is not going to decide any individual right for any of the plaintiffs. This Court does not want to interfere with the order passed by the Court below, at this stage, since this Court does not find any perversity in the order passed by the Court below.

4. In the result, the fair and final order passed by the Court below in I.A.No.1835 of 2011 in O.S.No.181 of 2006, dated 07.03.2012, is hereby sustained. The Court below is directed to complete the proceedings in O.S.No.181 of 2006, within a period of four months from the date of receipt of a copy of this order.

5. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

C.R.P. (PD) (MD) .No.1223 of 2012:

In view of the order passed in C.R.P.(PD)(MD).No.1231 of 2012, no separate order is required to be passed in this Civil Revision Petition and accordingly, this Civil Revision Petition is closed. No Costs. Consequently, connected miscellaneous petitions are closed.

PJL

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Additional District Munsif,
Srivilliputhur.

2. The Principal District Munsif,
Srivilliputhur.

+1CC to Mr.R.Saravanan, Advocate Sr.No.9262

+1CC to M/S.J.Anandhavalli, Advocate, Sr.No.92894

+1CC to Mr.J.J.Jeyakumaran, Advocate, Sr.No.92918

**C.R.P (PD) (MD) No.1231
and 1223 of 2012**

sma (22.11.2019) 4P 6C