



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2019

CORAM:

THE HONOURABLE **MRS.JUSTICE S.RAMATHILAGAM**

WEB COPY

C.R.P(PD) (MD)Nos.552 & 553 of 2019

and

C.M.P. (MD)Nos.2727 & 2729 of 2019

C.R.P(PD) (MD)Nos.552 & 553 of 2019

1. Vazhadaikan
2. P.Veeranan
3. C.Vijayan
4. V.Veeranan
5. M.Veerapandiyan

... Revision Petitioners/Respondents
Defendants 1 to 5
(In both petitions)

Vs.

- 1.Alagaye
2. V.Selvam
3. V.Malaiyalam
4. A.Vasanth
5. V.Aruvugam

... Respondents 1 to 5/Petitioners/
Proposed Plaintiffs
(In both petitions)

6. Ponnurangan

... 6th Respondent/6th Respondent/
6th Defendant
(In both petitions)

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to to call for the records of the lower Court and allow these Revision Petitions and set aside the fair and decretal order dated 26.11.2018 passed in I.A.Nos.1592 & 1593 of 2018 in O.S.No.197 of 2011 on the file of the District Munsif Court, Melur.

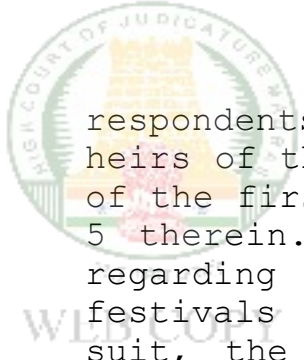
For Petitioners : Mr.V.Ramakrishnan
(In both petitions)

ORDER

These Civil Revision Petitions have been preferred against the order, dated 26.11.2018 passed in I.A.Nos.1592 & 1593 of 2018 in O.S.No.197 of 2011 on the file of the District Munsif Court, Melur.

<https://hcservices.ecourts.gov.in/hcservices/>

2. I.A.No.1592 and 1593 of 2018 have been filed by the



respondents/proposed plaintiffs, claiming themselves as legal heirs of the deceased plaintiff, Vazhakaruppan, who is the husband of the first petitioner therein and father of the petitioners 2 to 5 therein. The deceased plaintiff, Vazhakaruppan filed a suit regarding the honour and respect in respect of the temple festivals in the village temples. During the pendency of the suit, the said Vazhakaruppan died on 23.02.2018. Hence, the proposed parties filed the above petitions for impleading themselves as legal heirs of the deceased plaintiff, Vazhakaruppan as well as to set aside the abatement caused due to the death of the said Vazhakaruppan.

3. The contentions of the respondents/proposed parties is that they are the legal heirs of the deceased Vazhakaruppan and they are totally unaware of the proceedings, hence the delay has occurred. Consequently, the suit got abated and now it is very much necessary for them to set aside the abatement and got themselves to be impleaded as legal heirs of the deceased Plaintiff Vazhakaruppan.

4. The petitioners/defendants in the counter statement contended that the main suit is filed for the relief of declaration by the deceased plaintiff in respect of the festivals in the village temple on the basis of an alleged selection made on 01.07.2011. The said relief is purely personal in character, not in respect of an office.

5. The revision petitioners contended that the said right claimed by the plaintiffs is not hereditary in nature, but by way of rotation and election only, the said right is devolved on the deceased plaintiff and the said right cannot devolve on the legal heirs of the deceased plaintiff. Even going by the affidavit filed in support of the respondents, the respondents have not made any claim as if they were elected as the karai ambalakarar of the 5th karai by their sect. In such circumstances, when the suit has been filed to get the rights of 5th karai ambalakarar, no document has been produced by the proposed parties to prove such right. Hence, the necessity for impleading the proposed parties as legal heirs of the deceased plaintiff Vazhakaruppan does not arise.

6. The trial Court has observed the contentions raised by both sides and discussed about the necessity of the proposed parties to get themselves impleaded in the place of the deceased plaintiff and the same was allowed. The trial Court has further observed the fact that the said suit was not filed in the respective capacity and it is filed in the individual capacity. Hence, the right of the plaintiff has to be decided. The plaintiff died, during the pendency of the suit. In such circumstance, the legal heirs are very much essential to proceed with the suit. On the other hand, the petitioners/defendants have not made any objection that the respondents herein are not the legal heirs of the deceased Vazhakaruppan for having any right in the temple ~~home and~~ and respect and all these aspects will be decided only after proper enquiry.



7. The revision petitioners herein further contended that their right of 5th karai Ambalakarar is not a hereditary right and the proposed parties need not be necessary parties in the suit. It is also contended by the petitioners that the suit is in the stage of argument and at this stage, these petitions have been filed only to delay the proceedings. But the findings of the trial court is that since the suit is filed in the individual capacity, the rights of the legal heirs will be decided only by way of an enquiry.

8. On perusal of the order, it is seen that the suit is filed for the relief of declaration. The observation made by the trial court to the effect that the rights of the deceased plaintiff can devolve on his legal heirs can be decided only after proper enquiry is very much proper and reasonable. Hence, this Court finds no irregularity or infirmity on the part of the trial Court in allowing the said petitions. Further, I am of the considered opinion that the right of the proposed parties cannot be ignored and they must be given an opportunity to assert their rights. Hence, this Court does not want to interfere with the order of the trial Court.

9. In the result, both the civil revision petitions are dismissed. No costs. The trial Court is directed to proceed the trial of O.S.No.197 of 2011 in a speedy manner. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The District Munsif Court, Melur.

+2 CC to M/s.V.RAMAKRISHNAN, Advocate (SR-55439,55440[F] dated 20/03/2019)

C.R.P (PD) (MD) Nos.552 & 553 of 2019
and
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dss

AE/ (26.07.2019) 3P 4C