



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.11.2019

CORAM:

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP (MD) No.1974 of 2019

1. Kulanthaivelu
2. Parvathi

... Petitioners/Plaintiffs

versus

1. Ramarajaguru
2. The Commandant,
Ninth Battalion,
Tamil Nadu Special Police Force,
Manimuththaru,
Ambasamuthiram Taluk,
Tirunelveli District.
3. The Tahsildar,
Main Road,
Kadayanallur,
Kadayanallur Taluk,
Tirunelveli District.
4. The District Collector,
Kokkirakulam,
Tirunelveli,
Tirunelveli Taluk,
Tirunelveli District.

... Respondents/Defendants

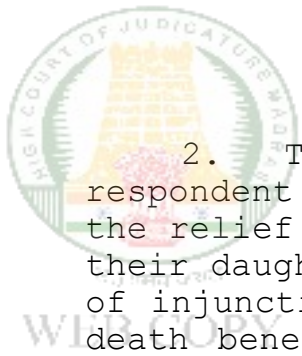
Revision Petition filed under Article 227 of Constitution of India, seeking to set aside the order of return dated 30.04.2019 passed in unnumbered O.S.SR.No.2935 of 2019 on the file of the Principal District Munsif Court, Tenkasi and consequentially direct the Lower Court to take the plaint on file and allow the CRP.

For Petitioners : Mr.J.Barathan

ORDER

The present Civil Revision Petition has been filed seeking to set aside the order of return dated 30.04.2019 passed in unnumbered O.S.SR.No.2935 of 2019 on the file of the Principal District Munsif Court, Tenkasi.

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



2. The revision petitioners filed a suit against the first respondent before the Principal District Munsif Court, Tenkasi, for the relief of declaration declaring that they are the legal heirs of their daughter, Lakshmi, who is now deceased and also for the relief of injunction restraining the second defendant from disbursing the death benefit to the first defendant/first respondent, who is the husband of deceased. However, the Court below returned the papers stating that according to Section 15 of the Hindu Succession Act, while the husband of the deceased Hindu lady if alive, the father and mother of the said lady have no rights to seek the relief to be declared as a legal heirs of the said deceased. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. According to the revision petitioners, they are totally depending upon the income of the deceased daughter. The issue as to whether the plaintiffs are the dependents or not can be decided only after conducting the full-fledged trial. Without considering all these facts, the Court below returned the suit papers stating that they are not entitled to file the present suit.

4. Therefore, this Court is of the view that the plaintiffs are claiming the rights of dependents and based on that, they sought the second relief to restrain the second defendant from disbursement of death benefits in favour of the first defendant husband and the same can be decided only after conducting full-fledged trial. In these circumstances, rejecting the plaint without numbering the suit cannot be acceptable. Therefore, this Court directs the Court below to number the suit and decide the same on merits and in accordance with law.

5. With the above direction, the Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

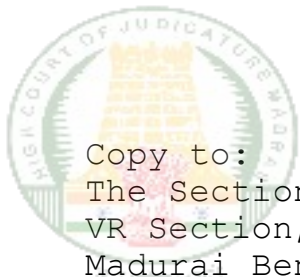
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Sub Assistant Registrar(CS)

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To

The Principal District Munsif,
Tenkasi.



Copy to:
The Section Officer, (2 Copies)
VR Section,
Madurai Bench of Madras High Court, Madurai.

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+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-96696[F] dated 07/11/2019)

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JMN (17.12.2019) 3P : 5C