

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD).Nos.2693, 2694 & 2695 of 2011

and
M.P.No.1 of 2011

Ravi

... Petitioner/2nd Defendant
in all CRPs

Versus

1.Jayabooshanam
2.Karunanithi
3.Kalaiaarasi
4.Kalaiselvi
5.Sandhia
6.Thamizh

... Respondents/Plaintiffs
in all CRPs

7.Shenbagam Umabarathi
8.Swetha @ Mithira (Minor)
9.Hariharan (Minor)
10.Anusuya (Minor)

... Respondents 7 to 10/
third parties
in all CRPs

11.Sundari
12.Vijayalakshmi
13.Nalini
14.Sumathi

... Respondents 11 to 14/
third parties in the suit
in all CRPs

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of the Constitution of India to set aside the orders dated 09.04.2011, passed in I.A.Nos.408, 409 & 410 of 2008 in I.A.Nos.101, 102 & 105 of 2007 in O.S.No.384 of 2000, on the file of the learned II Additional District Judge, Puducherry.

For Petitioner
in all CRPs : Mr.R.Thiagarajan

For R2
in all CRPs : Mr.E.C.Ramesh

For R1, R3 to R14 : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed against the orders passed by the learned II Additional District Judge, Puducherry, dated 09.04.2011, in I.A.Nos.408, 409 & 410 of 2008 in I.A.Nos.101, 102 & 105 of 2007 in O.S.No.384 of 2000.

2 Brief facts of the case are as follows:

Originally one Mr.Kanagasabai has filed a suit in O.S.No.384 of 2000, against Anbazhagan @ Murugesan and Ravi, seeking relief of specific performance of the suit sale agreement. During the pendency of suit, the sole plaintiff viz., Kanagasabai has died and hence, the suit was order to be dismissed as abated. Thereafter, legal representatives of the deceased/sole plaintiff viz., Jayabooshanam, Karunanidhi, Murali, Kalaiarasi, Kalaiselvi, Sandshiya and Tamizh have filed,

(i) I.A.No.101 of 2007 to set aside the order of abatement and to restore the suit;

(ii) I.A.No.102 of 2007 to implead the legal representatives of the fourth

plaintiff as defendants 3 to 6 in the suit;

(iii) I.A.No.105 of 2007 to appoint third respondent as guardian for the minor respondents 4 to 6 in the suit.

Meanwhile, one of the respondents viz., Murali, son of the deceased/sole plaintiff has died and his legal representatives are not willing to join them and therefore, they have been impleaded as proposed respondents in the said I.A.Nos.101, 102 & 105 of 2007, as the respondents 3,4,5 and 6. When I.As were pending, the first respondent/defendant in the suit viz., Anbazhagal died and hence, applications in I.A.Nos.408, 409 & 410 of 2008 were filed, to bring the legal representatives of the first defendant as respondents 7,8,9, & 10 and the same was allowed in the interest of justice and to avoid multiplicity of proceedings by the Trial Court. Aggrieved by the said action this petition is filed.

3 The sole grievance of the petitioners is that without the petition to condone the delay, the applications were filed in I.A.Nos.408, 409 & 410 of 2008 should not be allowed.

4 Heard the learned counsel for the petitioner and the learned counsel for the second respondent and perused the materials placed on record.

5 On a perusal of the records, it is clear that the first respondent in I.A.Nos.101, 102 & 105 of 2007 (first defendant in O.S.No. 384 of 2000) died on 21.05.2006 and the petition to bring legal representatives was filed only in the month of December 2007 and hence, there is a abatement and also there is also a delay in filing petition to set aside the abatement.

6 In this view of the matter, the orders passed in I.A.Nos.408, 409 & 410 of 2008 are set aside and the matter is remitted back to the the learned Second Additional District Munsif, Pondicherry and it is open to the parties to file necessary application and after taking the application so filed and the counter if any, the Trial Court is directed to dispose of the application in accordance with law.

7 With these observations the Civil Revision Petitions are allowed to the limited extent. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order:Yes/No

To

The II Additional District Judge,
Puducherry.

RMT.TEEKAA RAMAN., J.

dua



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