

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD).No.890 of 2012

and

M.P.No.1 of 2012

Manickam

... Petitioner/
plaintiff

Versus

1.Chinnasamy

...1st Respondents/
1st Defendant

2.Boopathi

3.Kasthuri

4.Sakunthala

5.Kasilingam

...Respondents 2-5/
Defendants 3 to 6

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order of the learned III Additional District Munsif, Kallakurichi, dated 19.01.2012 in I.A.No.2766 of 2011 in O.S.No.628 of 2003.

For Petitioners : Mr.P.Valliappan

For R1 : Mr.J.Ramakrishnan

For R2, R5 : No appearance

For R3 : Not known

For R4 : No such address

ORDER

This Civil Revision Petition has been filed against the order passed by the learned III Additional District Munsif, Kallakurichi in I.A.No.2766 of 2011 in O.S.No.628 of 2003, dated 19.01.2012.

2 The revision petition is the plaintiff in the suit.

3 Brief facts of the case are as follows:

(i)The plaintiff/revision petitioner has filed a suit in O.S.No.628 of 2003 before the learned III Additional District Munsiff, Kallakurichi, seeking for the relief of partition and allotment of 4/5th share in the suit property. During the pendency of the suit, the second defendant viz., Malaiammal died and hence, petition to bring legal representatives of the deceased on record, petition to set aside the abatement and petition to condone the delay of 51 days were filed in I.A.No.3272 of 2011 and the same was allowed and I.A.No.2766 of 2011 was kept pending. After enquiry, separate order was passed, whereby, petition to set aside the abatement was allowed and the petition to bring on record the legal representatives of the deceased in I.A.No.2766 of 2011 was dismissed on the ground that one of the legal heir viz., Pazhamalai/ husband of the deceased was not impleaded. However, I.A.No.3272 of 2011 was allowed and husband of Malaiammal was impleaded. The reason assigned by the petitioner is that since the husband of the deceased was not available for more than seven years, he has not impleaded as a party defendant. Since the substantial interest of the defendant is represented by the sons and daughters, the order passed by the

Trial Court needs interference.

4 Accordingly, the order passed for bringing on record the legal representatives of the deceased is allowed in I.A.No.2766 of 2011 stands allowed and the learned III Additional District Munsif Court, Kallakurichi is directed to amend the cause title and proceed with the matter and disposed of the same within a period of twelve weeks from the date of receipt of a copy of this order.

5 In the result, the Civil Revision Petition stands allowed and the order passed by the learned III Additional District Munsif Court, Kallakurichi in I.A.No.2766 of 2011 in O.S.No. 628 of 2003 is set aside. I.A.No.2766 of 2011 filed for bringing on record the legal representatives of the deceased stands allowed. The learned III Additional District Munsif Court, Kallakurichi, is directed to amend the cause title and proceed with the matter and dispose of the same within a period of twelve weeks from the date of receipt of the order. No costs. Consequently, connected miscellaneous petition is also closed.

08.01.2020

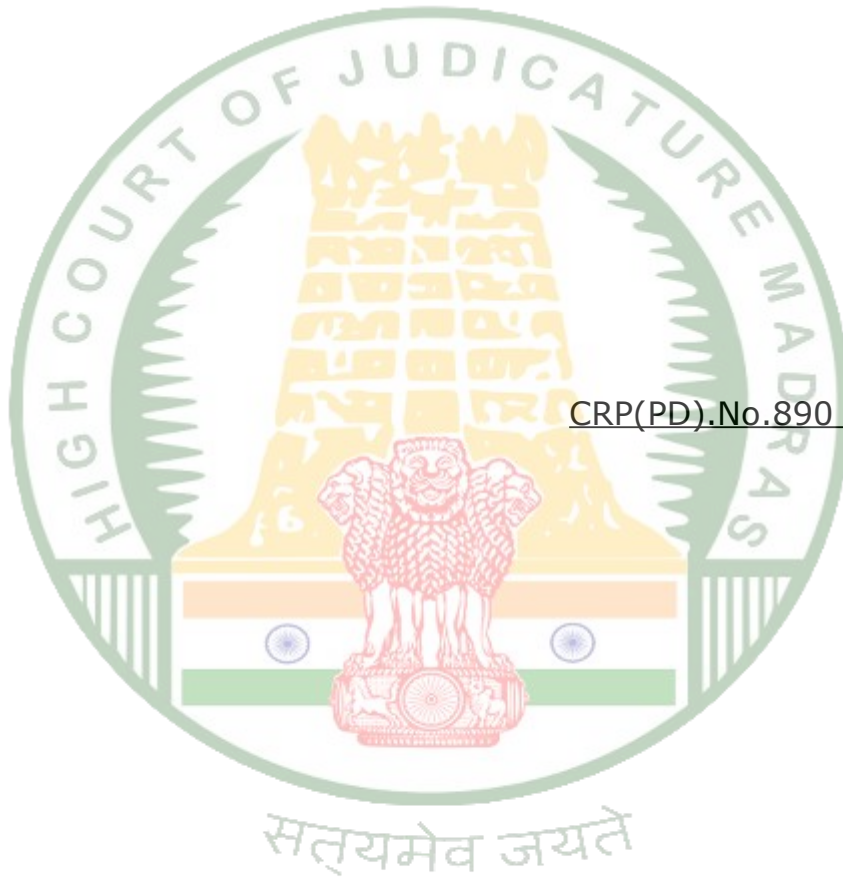
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Speaking Order:Yes/No

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RMT.TEEKAA RAMAN., J.

dua

To
The III Additional District Munsif, Kallakurichi.



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