

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM:

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

CRP.(PD).No.2733 of 2013  
and M.P.No.1 of 2013

Rangammal

... Petitioner

Vs.

Subramanian (Died)

1.V.R.Rangasamy

2.V.R.Palanisamy

3.A.Subramanian(died)

4.Saraswathi

5.Velusamy

6.Manonmani

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 16.04.2013 made in I.A.No.187 of 2013 in O.S.No.290 of 2009 on the file of the District Munsif at Sathyamangalam by allowing this Civil Revision Petition.

For Petitioner : Mr.A.V.Arun

For Respondents : No Appearance for R1 to R4, R6

**ORDER**

The petitioner has filed a suit for partition against the respondents for 1/4<sup>th</sup> share. During the pendency of the suit, the first defendant died. Therefore, the petitioner filed an application to bring on record the legal heirs of the deceased first defendant. After allowing that application, she filed an application for amending the plaint under Order VI Rule 17 of CPC and the same was dismissed by the trial Court. Challenging the said order, the petitioner/plaintiff is before this Court.

2. The learned counsel for the petitioner would submit that during the pendency of the suit, the first respondent/first defendant died. Therefore, the petitioner filed an application to bring the legal heirs of the deceased first defendant on record. Though the same was allowed and the legal heirs of the deceased first defendant were ordered to be impleaded, subsequently the petitioner filed an application for consequential

amendment. Since the first respondent/first defendant died and mentioned about the shares of the legal heirs of the first respondent, that is the reason the trial Court has dismissed the application even without considering the legal heirs have to be brought on record as per the order in earlier application and therefore, there is infirmity in the order passed by the trial Court.

3. Heard the learned counsel appearing for the petitioner and perused the records.

4. Though the notice has been served to the respondents and their names have been printed in the cause list, none appeared for the respondents.

5. Admittedly, the petitioner filed a suit against the respondents for the relief of partition. During the pendency of the suit, the first defendant died. The legal heirs of the first defendant were ordered to be impleaded. But, after filing the application for consequential amendment to amend the

plaint, the said application was dismissed. There is no perversity in the orders passed by the trial Court in dismissing the application. Since, the first defendant died and the legal heirs of the deceased first defendant, namely, the respondents 5 to 7 were ordered to be impleaded in the suit, the trial Court should have allowed the application to amend the plaint to that extent alone.

6. In the result, this Civil Revision Petition is dismissed. However, the trial Court is directed to allow the petitioner to carry out the amendment by impleading the names of the legal representatives of the deceased first defendant, namely, the defendants 5 to 7 in the said plaint. No costs. Consequently, connected Miscellaneous Petition is closed.

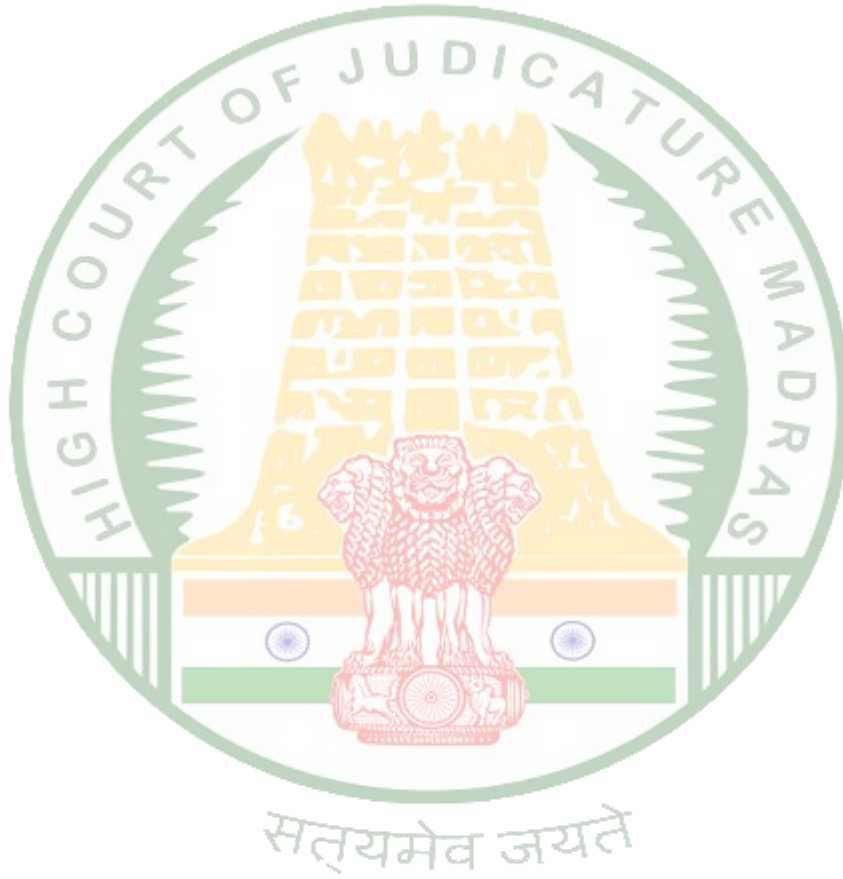
**31.08.2020**

Internet : Yes/No  
Speaking Order/Non Speaking Order  
Index : Yes / No  
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To

4/6

1. The District Munsif,  
Sathyamangalam.
2. The Section Officer, V.R.Section, High Court, Madras.

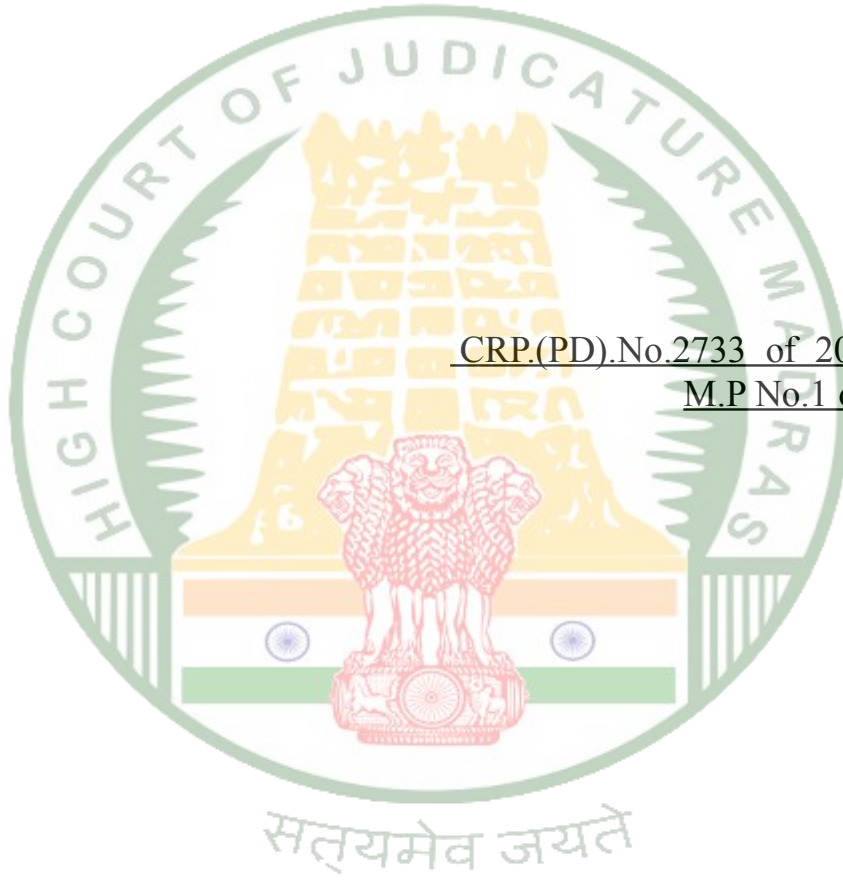


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**P.VELMURUGAN.,J**

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C.R.P(PD).No.2733 of 2013



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