

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.Nos.4198 of 2014 & 2051 of 2015 and
MP.Nos.1 of 2014 & 1 of 2015

CrI.OP.No.4198 of 2014

1.A.Rasammal
2.Jeganathan ..Petitioners

Vs.

Muthugounder(died)
1.Kuttiyappagounder
2.Maarappagounder
3.Murugesan
4.Jegadhambal
Selvaraj(died)
5.Annapoorani
6.S.Sandhiya
7.Minor Renugadevi
8.Minor Haripriya
R7 and R8 are minors
represented by her mother
Annapoorani

..Respondents

PRAYER:

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The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 17.09.2014 made in IA.No.335 of 2014 in IA.No.697 of 2013 in OS.No.1034 of

2004 on the file of Additional District Munsif Court, Tiruchengode and consequently allow the interlocutory application in IA.No.335 of 2014 in IA.No.697 of 2013 in OS.No.1034 of 2004 on the file of the Additional District Munsif Court, Tiruchengode.

For Petitioners : Mr.V.Subramanian
for Mr.S.Viswanthan

For Respondents : No Appearance

Crl.OP.No.2051 of 2015

1.A.Rasammal
2.Jeganathan

..Petitioners

Vs.

1.Kuttiyappagounder
2.Maarappagounder
3.Murugesan
4.Jegadhambal
5.Selvaraj

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 15.04.2015 made in IA.No.697 of 2013 in OS.No.1034 of 2004 on the file of Additional District Munsif Court, Tiruchengode and consequently allow the interlocutory application in IA.No.697 of 2013 in OS.No.1034 of

2004 on the file of the Additional District Munsif Court, Tiruchengode.

For Petitioners : Mr.V.Subramanian
for Mr.S.Viswanthan

For Respondents
R1 to 4 : No Appearance
R5 : Died (steps taken)

COMMON ORDER

These Civil Revision Petitions are filed praying to set aside the order dated 17.09.2014 made in IA.No.335 of 2014 in IA.No.697 of 2013 in OS.No.1034 of 2004 on the file of Additional District Munsif Court, Tiruchengode and consequently allow the interlocutory application in IA.No.335 of 2014 in IA.No.697 of 2013 in OS.No.1034 of 2004 on the file of the Additional District Munsif Court, Tiruchengode; and to set aside the order dated 15.04.2015 made in IA.No.697 of 2013 in OS.No.1034 of 2004 on the file of Additional District Munsif Court, Tiruchengode and consequently allow the interlocutory application in IA.No.697 of 2013 in OS.No.1034 of 2004 on the file of the Additional District Munsif Court, Tiruchengode.

2. Though notice was served to the respondents no one appeared on behalf of them before this Court in person or through pleader.

3. The petitioners are plaintiffs. They filed suit for declaration and injunction as against the respondents in respect of the suit property. Pending the suit, the first defendant died on 23.02.2005. Therefore, the petitioners took out an application in IA.No.697 of 2013 to implead the legal representatives of the first defendant, namely his son and daughter i.e. Jagadambal and Selvaraj. In the said application, the respondents filed counter stating that the proposed 6th defendant also died on 08.10.2008. Even when the petitioners had absolute knowledge about the death of the said Selvaraj, they failed to implead the legal heirs of the deceased Selvaraj. While pending the said application, again the petitioners filed petition to implead the legal heirs of the deceased son of the deceased first defendant along with condone delay petition in IA.No.335 of 2014. In fact, the petitioners also filed petition to set aside the abatement of the suit against the deceased first defendant in IA.Sr.No.2196 of 2014.

4. The court below failed to number the said petition and number the condone delay petition and also dismissed both the condone delay petition as well as the petition to implead the legal heirs of the deceased first defendant in IA.No.697 of 2013. The trial court ought to have numbered the petition to set aside the abatement of the suit against the deceased first defendant and have to pass orders in all the petitions.

5. Therefore, the orders passed in IA.No.335 of 2014 dated 17.09.2014 and IA.No.697 of 2013 dated 15.04.2015 are set aside and all the above applications are remanded back to the court below for fresh disposal along with the petition to set aside the abatement of the suit against the deceased first defendant.

6. Accordingly, the civil revision petitions are allowed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

08.01.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

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To

The Additional District Munsif Court,
Tiruchengode.



CRP.PD.Nos.4198 of 2014 & 2051 of 2015

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