



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD)No.881 of 2020

and

C.M.P. (MD)No.980 of 2021

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1.R.Vijayalakshmi

2.R.Arun

3.R.Sundar

Respondent

... Petitioners/Respondents/Sole

[Petitioners are represented by their power agent
K.Mariappan]

Vs.

1.T.Bhuvaneswari

2.K.Sivakameshwari

3.V.Saratha Devi

4.K.Saravanan

5.B.Lalithambigai

6.K.Senthilkani

7.R.Abirami

8.Sankareswaran

9.Ramachandra Ganesh

...Respondents/Applicants

PRAYER: Civil Revision Petition under Section 115 of Civil Procedure Code, to allow this Civil Revision Petition with Costs by setting aside the order passed on 05.08.2020 in E.A.No.1 of 2020 in E.P.No.26 of 2010 in O.S.No.10 of 2007 on the file of the learned District Munsif, Sivakasi.

For Petitioners :Mr.A.Sivaji

for A.Suwathieswaran

For R-1 to R-7 :Mr.S.Parthasarathy

For R-8 & R-9 :No appearance

ORDER

This Civil Revision Petition has been filed by the petitioner to set aside the order, dated 05.08.2020 in E.A.No.1 of 2020 in E.P.No.26 of 2010 in O.S.No.10 of 2007 passed by the learned District Munsif, Sivakasi.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The execution petition in E.P.No.26 of 2010 in O.S.No.10 of 2007 was filed by the respondents on the basis of lokadalat settlement. During the pendency of the Civil Revision Petition,



both the parties died. In the Civil Revision Petition, the legal heirs of both the parties were impleaded and some of the legal heirs of the defendant are added as petitioners and two of the legal heirs are added as R-5 & R-6.

4.The defendants have filed an application in E.A.No.1 of 2020 to implead the legal heirs of the defendant in E.P.No.26 of 2020. As per the order of this Court, dated 01.06.2017 in C.R.P(MD) Nos.4274 to 4276 of 2017, the application in E.A.No.1 of 2020 was allowed on the basis that already CRP was allowed and the legal heirs were impleaded as parties and so separate enquiry is not necessary. Aggrieved the same, the revision petitioners are before this Court.

5.Heard on either side. Perused the material documents on record.

6.The learned counsel appearing for the revision petitioners contended that the defendants should have to file a petition to implead themselves as the legal heirs in E.P.No.26 of 2020.

7.Notice has also been served to these petitioners. But, already in the Civil Revision Petition the legal heirs of both parties were added and then only the present CRP is filed.

8.The paragraph No. 11 of the Judgment reported in **(2003) 10 Supreme Court Cases 691, Mithailal Dalsangar Singh and Others Vs. Annabai Devram Kini and Others**, is extracted hereunder:

...

"11.There is yet another aspect of the matter. As we have already noticed, the appeal against the order of ad interim injunction passed by the learned trial Judge was pending before the Division Bench. Therein the defendants had themselves moved an application for bringing on record the legal representatives of the deceased plaintiff, that is, the respondent in their appeal. The legal representatives being brought on record at any stage of the proceedings enures for the benefit of the entire proceedings. The prayer made by the defendants in their appeal for bringing on record the legal representatives of the deceased plaintiff-respondent in appeal was not opposed by the legal representatives or by any of the co-plaintiffs. Rather the prayer was virtually conceded to by the legal representatives themselves moving an application for being brought on record in the suit in place of the deceased plaintiff. In our opinion, the



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application made by the defendant-appellants in the appeal once allowed would have the effect of bringing the legal representatives on record, not only in the appeal but also in the suit. All that would remain to be done is the ministerial act of correcting the index of the parties by the applicants in appeal and then in the suit, in view of the defendants themselves having sought for impleadment of the legal representatives in the appeal the delay in moving the application in the suit by the legal representatives, being subsequent in point of time, became meaningless."

9.Since the legal heirs of both the parties were added in the CRP no separate petition is necessary.

10.The learned counsel appearing for the revision petitioners relied upon the Judgment reported in **2018 0 Supreme (Mad) 4034, Sundaravalli & Others V. Mutaz Begum & Others**, this Court held as follows:

....

"Section 9 application is independent of the suit and the revision petitioner ought to have taken steps to implead themselves therein. Now after the decree has been passed and I.A.No.1331 of 1998 has abated, the relief now sought for cannot be granted."

11.But, in the case on hand, already the legal heirs were impleaded as parties in the Civil Revision Petition. So, the aforesaid facts are not applicable to this case.

12.In view of the foregoing reasons, this Civil Revision Petition is dismissed by confirming the order, dated 05.08.2020 in E.A.No.1 of 2020 in E.P.No.26 of 2010 in O.S.No.10 of 2007 passed by the learned District Munsif, Sivakasi. Since the execution petition in E.P.No.26 of 2010 is pending from the year 2010, the learned District Munsif, Sivakasi is directed to dispose the matter, within a period of two months from the date of receipt of copy of the order.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

The District Munsif Court,
Sivakasi.

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+1 CC to M/s.A.SIVAJI, Advocate (SR-13042[F] dated 18/03/2022)

+1 CC to M/s.S.PARTHASARATHY, Advocate (SR-13244[F] dated
21/03/2022)

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17.03.2022

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