



C.R.P (MD) No.1796 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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Selvamani (died)

M.Thiyagarajan (died)

1.V.M.Jeganathan

M.Ramachandran (died)

2.R.Parthasarathy

3.R.Thirunavukkarasu

4.Devagi

5.Manimegalai

6.Rajamanickam

7.Saradha Devi

8.Narasimma Moorthy

... Petitioners

Vs

1.M.Kathar Ushen @ Muthukannu

2.D.Mohamedali

3.Sahul Hamed

... Respondents



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.08.2021 made in I.A.No.69 of 2021 in O.S.No.146 of 2012 on the file of the Additional Sub Judge, Pudukottai and allow the civil revision petition.

For Petitioner : Mr.V.Selvakumar

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order passed in I.A.No.69 of 2021 by the learned Additional Sub Judge, Pudukottai dated 09.08.2021.

2.The Petitioners/plaintiffs filed an interlocutory application in I.A.No.69 of 2021 under Order VI Rule 17 of CPC to amend the plaint. The said application was dismissed by the trial Court that the 7th petitioner is not a party to the suit and therefore she has no locus to file the said application.

3.The learned Counsel for the petitioners submits that the suit was filed by one Selvamani and pending the suit, the said Selvamani died. Therefore the application was



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filed to implead Devagi, the legal heir of Selvamani and she is already a party to the suit. The said application was not numbered. While so, the interlocutory application filed by the petitioner in I.A.No.69 of 2021 was dismissed without taking into consideration of the application filed for impleading the legal heir of Selvamani. Aggrieved over the same, this Civil Revision Petition is filed.

4.Heard the learned Counsel for the petitioners and perused the materials placed on record.

5.Admittedly the 7th respondent is not a party to the suit filed in O.S.No.146 of 2014 and therefore, when the 7th respondent is not a party to the suit and without she being impleaded, the said application filed by her is not maintainable. However she has filed an interlocutory application in I.A.SRNo.1396 of 2016, for impleading herself. Therefore the petitioner is at liberty to prosecute the said interlocutory application and thereafter to file the application for amendment of the plaint, which shall be decided by the trial Court on its merits.



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6. In the result the civil revision petition is disposed
of on the above terms. No costs.

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To

The Additional Sub Judge,
Pudukottai.



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B.PUGALENDHI , J.

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