



C.R.P.Nos.4307 & 4318 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.4307 & 4318 of 2023

Arulmighu Asaala Guru Punithabu
Subramaniya Swamigal Mutt
Neelamangalam Village, Madurantakam Taluk
Rep.by its Manager, the Executive Officer
Arulmighu Kothadaramaswamy Temple
Madurantakam.

... Petitioner in
both C.R.P.s

-Vs-

1.A.N.Sivarama Brahmam

A.N.Hariprasad (died)

2.A.N.Veeresalingam

Dilip Nensey Bhatia (died)

3.T.I.Royappa

4.T.I.Irudhayaraj

... Respondents in
both C.R.P.s



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Prayer in CRP 4307 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 31.01.2023 passed in I.A. No.4 of 2022 in I.A.No.2 of 2022 in O.S.No.3 of 2008 on the file of the District Munsif, Madurantakam.

Prayer in CRP 4318 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 31.01.2023 passed in I.A. No.5 of 2023 in O.S.No.3 of 2008 on the file of the District Munsif, Madurantakam.

For Petitioner : Mrs.Usha Raman

ORDER

Challenging the impugned orders passed in I.A.No.4 of 2022 in I.A.No.2 of 2022 and I.A.No.5 of 2023 in O.S.No.3 of 2008 passed by the learned District Munsif, Madurantakam respectively, the Revision Petitioner/plaintiff preferred these Civil Revision Petitions.

2. Since the relief is claimed challenging the orders passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner/Plaintiff filed a suit in O.S.No. 3 of 2008 against the defendants 1 to 6 for the relief of



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declaration and permanent injunction. During the pendency of proceedings, the 2nd and 4th defendants died. As the 2nd defendant died, the plaintiff filed an application in I.A.No.2 of 2022 to amend the cause title by including a word “died”. In the meanwhile, the 4th defendant also died. Again he filed an application in I.A.No.4 of 2022 praying the court to amend the application in I.A.No.2 of 2022 to include a word “died” in the cause title. Accordingly, the Revision Petitioner also filed an application in I.A.No. 5 of 2023 praying to amend the plaint short cause title after the name of 4th defendant to include the word “died” as well as in the plaint long cause title after the name of 4th defendant to include a word “died”. The said applications were objected by the defendants as the particulars of legal heirs of deceased was not furnished by the plaintiff, without which the cause title cannot be amended. On hearing both sides, the trial judge dismissed the applications holding that the death of 4th defendant alone cannot be amended, since because the plaintiff has not taken steps to add legal heirs of 4th defendant as well as not produced the death certificate. Challenging the said findings, the Revision Petitioner preferred these Civil Revision Petitions.

4. The learned counsel for Revision Petitioner would submit that the



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death of 2nd defendant as well as 4th defendant was intimated by the defendants, who are very well knew about the death of those persons, however, there is no denial on the side of contesting defendants about the death of 2nd and 4th defendants. Inspite of that, the trial judge erroneously held that the plaintiff not produced the death certificate of those deceased persons. Hence, he prayed to set aside the findings of trial judge.

5. Admittedly, when the defendants not raised objection with regard to death of 2nd and 4th defendants, there is no necessity to produce the death certificate. Inspite of that, the trial judge failed to permit Revision Petitioner/plaintiff to amend the cause title, as such is erroneous one and the same is liable to be set aside. The learned counsel would submit that deceased persons were originally residents of Kolkata. So, they were unable to get the particulars of legal heirs. So, if at all, any amendment is to be carried out, the same can be decided at the time of trial and not at the stage of amendment. Therefore, the trial judge is entitled to amend the cause title as they prayed for, but without giving opportunity, the trial judge dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.4 of 2022 in



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I.A.No.2 of 2022 and I.A.No.5 of 2023 in O.S.No.3 of 2008 are set aside

and the said applications are ordered to be allowed. Liberty is granted to the respondents/defendants to file their additional written statement. No costs.

06.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The District Munsif, Madurantakam.



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T.V.THAMILSELVI, J.

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