



C.R.P.(NPD)No.2400 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.2400 of 2019

and

C.M.P.No.15700 of 2019

Ettiappan (Died)

1.Anjalai Devi

2.Yasmin @ Tayanayaguammalle dite Prema

3.Selvakumari

4.Vizayakumary

5.Gandhimathy

6.Lakshmy

7.Saraswathy

.. Petitioners

Vs.

1.Annammal

2.Sabapathy

1/5



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3.Vaithiyanathan

Santha (Died)

4.Vasantha

5.Saroja

6.Chandra

7.Amutha

8.Ezhilarasi

Rathinam Ammal (Died)

Represented by her Legal Representatives

Respondents/Plaintiffs 1 to 8 herein

9.Kamatchi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 10.08.2018 made in I.A.No.309 of 2014 in I.A.No.500 of 2009 in O.S.No.265 of 1991 on the file of Learned Additional Sub Judge, Puducherry.

For Petitioners : Mr.R.Thiagarajan



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ORDER

O.S.No.265 of 1991 is a suit for partition and separate possession. The suit was decreed as early as on 19.09.1996. Final decree proceedings were initiated in 2009. The first respondent Ettiappan passed away on 29.09.2010. To bring on record the legal representatives of the deceased/first respondent, an application was filed in I.A.No.309 of 2014. The said application was allowed on 10.08.2018. Against which, the present revision has been filed.

2.Heard Mr.R.Thiagarajan, learned counsel appearing for the petitioners.

3.Mr.R.Thiagarajan would submit that the death had occurred on 29.09.2010 and the application to bring on record was filed only on 08.10.2014. Necessary applications to condone delay, set aside abatement and bring on record had not been presented. Therefore, he says the learned trial Judge fell in error in allowing the application.

4.The submissions that the procedure had not been followed is correct. However, since the learned Judge had exercised her discretion



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and allowed the application, she is deemed to have condoned the delay and also set aside the abatement.

5.The learned Judge has said that she is allowing the application in the interest of justice. I should not forget that procedure is only hand maiden of justice. The decree having been passed as early as on 19.09.1996, I do not want to throw out the final decree petition on technicalities. Unless and until, the order is arbitrary and capricious, I am not inclined to interfere with the same. Therefore, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

mkn-II/vs

To

The Additional Sub Judge,
Puducherry.



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V.LAKSHMINARAYANAN,J.

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