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C.R.P.No.2690 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2023

CORAM : **JUSTICE N.SESHASAYEE**

C.R.P.No.2690 of 2019

1.Balasubramani  
2.Chellammal

... Petitioners / Plaintiffs

**Vs.**

1.Paripooranam Ammal  
2.Valliammal  
3.V.Panneerselvam  
4.V.Dillibabu  
5.Vittabai  
6.Rupavathi

... Respondents / Defendants

**PRAYER:-** Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the order and decretal order passed in O.S.No.194 of 2009 dated 21.06.2019 on the file of the District Munsif Court, Thiruvottiyur, by allowing this civil revision petition.

For Petitioners : Mr.V.Sairam

For Respondents : Mr.S.Manogaran  
for R2, R4 & R5  
Mr.R.Krishnaswamy for R5  
R1 - Served (No appearance)



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## **ORDER**

The suit in O.S.No.194 of 2009 on the file of District Munsif Court, Thiruvottiyur, came to be dismissed under strange circumstances.

2. During the pendency of the suit, one of the plaintiffs who was a minor when the suit was instituted, had attained majority and necessary applications were made to record the same and they were allowed. Subsequently, the Court directed the plaintiffs to take necessary steps for amending the cause-title of the plaint. The said direction was not implemented by the plaintiffs, but instead the plaintiffs have filed an I.A. seeking time to amend the plaint, and that was allowed. Subsequently, the plaintiffs are required to file an application to amend the plaint in terms of the original order. That was not done and hence, the suit came to be dismissed for default.

3. Heard both sides. The learned counsel for the respondents submitted that when once the suit is dismissed for default, the plaintiffs ought to have moved the trial Court with an application under Order IX Rule 9 CPC., which was not done.



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4. The counsel for the revision petitioners however submitted that Order IX Rule 9 would apply only where the suit is dismissed for non-appearance of the plaintiffs, and not otherwise.

5. Without delving into the hyper technical aspects of procedure, this Court merely directs the plaintiffs to carry out necessary amendment in the cause title of the plaint. After all procedure is a hand-maid of justice, and a maid must be maid, and never shall it try to hamstring the judicial process in justice dispensation.

6. The revision is accordingly allowed and the plaintiffs are required to carry out the amendment latest by 17.03.2023. No costs.

**07.03.2023**

Index : Yes/No  
Internet: Yes/No  
ds

Note : Issue order copy on 09.03.2023



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N.SESHASAYEE. J.,

ds

To:

- 1.The District Munsif  
Thiruvottiyur.
- 2.The Section Officer,  
VR Section,  
Madras High Court,  
Madras.

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