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C.R.P.No.4250 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4250 of 2022

and

C.M.P.No.22324 of 2022

1.S.Sekar

2.M.Selvam

... Petitioner

Vs

T.K.Ganapathu Mudaliar (Died)

1.L.Karthikeyan

... Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to pass an order directing the Hon'ble XIV Court of Small Causes at Chennai to pass orders in RLTOP No.355 of 2020 within a reasonable time.

For Petitioners : Mr.S.Sai Shankar

For Respondents : Mr.T.R.Rajaraman



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ORDER

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The Civil Revision Petition is filed to set aside the order dated 23.08.2022 passed in I.A.No.276 2020, in OS.No.215 of 2013. The revision petitioners are the defendants and one late Mr.T.K.Ganapathu Mudaliar instituted a suit for injunction, and during the pendency of the suit, the plaintiff T.K.Ganapathu Mudaliar died and thereafter, Mr. L.Karthikeyan was impleaded as a legal representative of the deceased plaintiff under Section 2(11) of CPC.

2.The Trial Court allowed the Interlocutory Application filed under Order 1 Rule 10(2) r/w 151 C.P.C. to implead the said Mr.L.Karthikeyan as the second plaintiff since the sole plaintiff, i.e., T.K.Ganapathu Mudaliar died on 13.12.2019. The revision petitioners raised an objection mainly on the ground that the deceased T.K.Ganapathu Mudaliar has other legal heirs and all those legal heirs are not impleaded in the suit and thus, the order of the Trial Court is to be set aside.



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3.The learned counsel for the respondent contended that the other six legal heirs of the deceased plaintiff T.K.Ganapathu Mudaliar have given their notarised affidavits authorising Mr.L.Karthikeyan to represent the suit based on the will and therefore, there is no irregularity in respect of the order passed by the Trial Court, allowing the impleadment petition filed by the respondent plaintiff. The learned counsel for the respondent relied on Section 2(11) of CPC, wherein the legal representatives are entitled to the suit on behalf of the original deceased plaintiff.

4.The learned counsel for the respondent further states that the sole and notarised affidavits of the legal heirs of the deceased plaintiff Mr.T.K.Ganapathu Mudaliar will be filed before the Trial Court for the purpose of contesting the suit instituted by the deceased plaintiff and this being the factum, this Court does not find infirmity in respect of the order passed. However, the revision petitioners are entitled to raise all their grounds in the suit at the time of adjudication.



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5. With these observations, the fair and decretal order dated 23.08.2022 passed in I.A.No.276 of 2020, in O.S.No.215 of 2013 is confirmed. Accordingly, the Civil Revision Petition stands **dismissed**. However, there shall be no order as to costs. Consequently, the miscellaneous petition is closed.

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27.01.2023

Speaking Order

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Principal District Munsif, Poonamallee.



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S.M.SUBRAMANIAM, J.

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