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CRP(NPD).No.3983 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM

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

CRP(NPD).No.3983 of 2023

1. K.Gurusamy Nadar
2. S.Kumarasamy Nadar
3. I.Ramasamy Nadar
4. I.Kaniyaiah
5. I.Muthupondi Nadar
6. S.Navaneethakrishna Nadar
7. S.Shanmugaraj Nadar
8. S.Ramasamy Nadar
9. S.Kaniayya Nadar
10. S.Balamurugan
11. M.Thangasamy Nadar
12. M.Ramasamy Nadar
13. M.Krishnasamy Nadar
14. G.Selvaraj Nadar



CRP(NPD).No.3983 of 2023

15. S.Kannan Nadar

16. S.Hariharan Nadar @ Harikrishnan

17. M.Santhana Nadar

18. M.Arumugasamy Nadar

19. M.Paramasivam

20. A.Krishnasamy Nadar

21. A.Murugaiya Gani Nadar

22. A.Santhanam

23. K.Annamalai Nadar

24. K.Murugaiah Nadar

25. K.Thirumalaisamy Nadar

26. S.Thirumalaisamy Nadar

27. S.Ramasamy Nadar

28. A.Marikani Nadar

29. A.Murugan Nadar

30. A.Kasi Nadar @ Murugan Nadar

31. D.Krishnan Nadar

32. A.Santhana Nadar

33. S.Santhana Nadar



CRP(NPD).No.3983 of 2023

34. K.Arunagirisamy Nadar

35. M.Ramachandra Nadar

36. P.Shamuganathan Nadar

37. R.Radhakrishnan Nadar

38. R.Saravanan Nadar

39. A.Harikrishnan Nadar

40. A.Santhana Nadar

41. K.Vayanaprakash Nadar

42. K.Chamdrakumar Nadar

43. R.Annamalai Nadar

44. A.Annamalai Pondi Nadar

45. A.Krishnasamy Nadar

46. A.thirumalaisamy Nadar

47. A.Palanisamy Nadar

48. S.Dhanabalakrishnan Nadar

49. S.Ayyakkannu Nadar

50. A.Arunagiriammal

51. A.Sornammal



CRP(NPD).No.3983 of 2023

52. A.Ranjitham

53. A.Prema

54. A.Parvathy

55. S.Pappathy

56. M.Kuruvammal

57. K.Thirumalai Achi

58. Mariammal

59. M.Bhakkiyalakshmi

60. P.Santhi

61. K.Valliammal

62. R.Narayanavadivu

63. A.Seeniammal

64. S.Saraswathiammal

65. S.Thirumalaikumarasamy

66. A.Danabalakrishnan

67. A.Muthukumar

68. A.Selvam

69. A.Iyyangkannu Nadar

70. M.Radhakrishnan



CRP(NPD).No.3983 of 2023

71. M.Arjunan

72. K.Chelladurai

73. S.Thirumalaikumar

74. S.Krishnammal

75. Krishna Nadar

76. Moniga Susi

77. R.Krishnaveni

78. K.Kannan

79. K.Selvam

80. K.Manikandan

81. K.Iyyankanu

...Petitioners

Vs.

1. The State rep by
The District Collector
Office of the District Collector,
Thirunelveli District.

2. The Tahsildar,
O/o.Taluk Office
Kadayanallore Taluk,
Thirunelveli District.

3. S.Pitchandi

4. The commissioner,

5/9



CRP(NPD).No.3983 of 2022

O/o.Thiruvannamalai Municipality,
Thiruvannamalai District.

...Respondents

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PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order of return in I.A.SR.No.955 of 2022 in O.S.No.10 of 2018 dated 16.09.2022, on the file of learned Additional District Judge , Tiruvannamalai and consequently direct to number the IA.

For Petitioners : Mr.M.Devaraj

ORDER

Challenging the impugned docket order dated 16.09.2022 passed by the learned Additional District Judge, Tiruvannamalai, in I.A.SR.No.955 of 2022 in O.S.No.10 of 2018.

2. Before the trial Court, the revision petitioners filed an application by invoking Order 9 Rule 9 prayed to restore the suit in O.S.No.10 of 2018 which was dismissed for default on 07.07.2022. The said application was returned by the trial Judge, held that some of the legal heirs i.e., P2, P39, P50 and P74 has not been included and also steps were not taken to implead the legal heirs and also not produced the death certificate of those plaintiffs.

3. The learned counsel for the revision petitioners submitted that during the



course of trial PW1 was examined, some of the plaintiffs was died, there was lot of difficulties, the legal heirs have not been impleaded. Therefore, the trial Judge had dismissed the suit. Thereafter, the plaintiff filed an application to restore the suit and the same was dismissed by the trial Judge. He further submitted that the plaintiffs have taken steps to implead the legal heir of the deceased and they want to one more opportunity to implead the legal heirs. Hence, he prayed to allow this petition.

4. Challenging the same, the plaintiffs have filed this Civil Revision Petition before this Court.

5. Admittedly, as rightly pointed by the plaintiffs, at the trial stage proceedings more than 15 plaintiffs, hence some of the legal heirs were not been included. Therefore, if the opportunity is not given to the revision petitioners, their valuable right of defence will be defeated. The order passed by the trial Judge in I.A..SR.No.955 of 2022 dated 16.09.2022 is hereby set aside. Hence, this Court directs the trial Court to number the said IA and issue notice to both parties and dispose of the same within a period of four weeks from the date of receipt of a copy of this order.



CRP(NPD).No.3983 of 2023

WEB COPY

6. In view of the above, this Civil Revision Petition is allowed. No costs.

7. Registry is directed to return the original IA along with endorsement filed by the revision petitioners.

20.11.2023

Speaking / Non Speaking order

Neutral Citation : Yes/No

Index : Yes/No

msrm

To

1. The learned Additional District Judge, Tiruvannamalai.

2. The Section Officer,
VR Section,
High Court of Madras

T.V.THAMILSELVI.J.



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CRP(NPD).No.3983 of 2023

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CRP(NPD).No.3983 of 2023

20.11.2023