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C.R.P.Nos.4765 & 4766 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

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

C.R.P.Nos.4765 & 4766 of 2023

Murugesh Babu

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

-Vs-

1. E.Ashokkumar
2. E.Suguna
3. Kaliyamurthy
4. Nagarani
5. Ekavali
6. Muthammal
7. Murugaiyan

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

Prayer in C.R.P.No. 4765 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed in I.A. No.350 of 2023 in O.S. No.357 of 2010 dated 12.09.2023 on the file of the Addl. District Munsif, Villupuram.

Prayer in C.R.P.No. 4766 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and



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decreetal order passed in I.A. No.351 of 2023 in O.S. No.357 of 2010

dated 12.09.2023 on the file of the Addl. District Munsif, Villupuram.

For Petitioner in

both C.R.P.s : Mr.N.Suresh

COMMON ORDER

Challenging the impugned common order passed in I.A.Nos.350 and 351 of 2023 in O.S.No.357 of 2010 passed by the learned Addl. District Munsif, Villupuram, the Revision Petitioner/third party preferred these Civil Revision Petitions.

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

3. Before the trial court, originally the suit was filed by the father of Revision Petitioner and subsequently, during his life time, a power of attorney was executed in favour of Revision Petitioner and his father was represented by Power Agent Murugesh Babu while filing the suit, since because the Revision Petitioner was in London and now he came down to India. Therefore, his father has given a power of attorney to proceed with the suit, however, during the pendency of proceedings, he died. Hence, the Revision Petitioner seeks permission of the court to proceed with the suit



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by impleading himself as plaintiff in the suit by removing the existing cause title. Accordingly, he filed two applications i.e. one application in I.A.No.350 of 2023 praying to recall the order that was passed on 13.07.2023 and another application in I.A.No. 351 of 2023 permitting him to get himself impleaded in the suit. But those applications were dismissed by the trial judge holding that already the suit was dismissed as abated on 13.01.2023. Therefore, the applications filed by the revision petitioner to recall and implead him as a plaintiff is not permitted. Accordingly, both applications were rejected. Aggrieved over the same, the Revision Petitioner preferred this Civil Revision Petition.

4. The learned counsel for revision petitioner would submit that originally, the suit was filed by his father, but the property under dispute was purchased by himself along with his father. As he was in London and employed at abroad, his father conducted the suit and thereafter, after giving power of attorney in favour of him, his father died. After his demise, he is entitled to proceed with the suit as a legal heir. So, he has filed applications to revoke the order passed by the trial judge and to implead him as plaintiff in the suit, which were dismissed by the trial judge stating that the suit was dismissed as abated on 13.07.2023. Hence, the Revision



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Petitioner prayed to set aside the findings of trial judge and also prayed to permit him to implead himself as plaintiff, since because he has already represented the suit as power agent.

5. Records perused. On seeing the entire facts, it would clearly reveals that during the pendency of the suit, he has represented his father as power agent and now, his father was passed away. Hence, the revision petitioner is entitled to proceed with the suit, but the trial judge dismissed the suit as abated, as such is erroneous one and the same is liable to be set aside . Accordingly, these Civil Revision Petitions are allowed and the findings of trial judge in I.A.Nos.350 and 351 of 2023 in O.S.No. 357 of 2010 is set aside and the applications are ordered to be allowed. The revision petitioner is permitted to contest the suit as a plaintiff and the trial judge is directed to proceed with the suit as per manner known to law. Liberty is granted to the defendants to file their additional written statement, if any. No costs.

19.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Addl. District Munsif, Villupuram.



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T.V.THAMILSELVI, J.

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