



C.R.P(MD)Nos.442 to 444 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)Nos.442 to 444 of 2023

and

C.M.P(MD)No.2113 of 2023

C.R.P(MD)No.442 of 2023:

E.Antony Doss George

... Petitioner/Respondent/
Defendant

Vs.

1.R.S.Wind Tech Engineering (P) Ltd.,
Aralvoimozhy,
Represented by its Managing Director,
Selvakumari.

... 1st Respondent/1st Petitioner/
1st Plaintiff

2.R.Iyyappan

... 2nd Respondent/2nd Petitioner/
3rd Plaintiff

3.R.Kingsley

... 3rd Respondent/3rd Petitioner/
4th Plaintiff

4.Selvakumari

5.R.Princeslus

6.R.Stephy

... Respondents 4-6/Petitioners 4-6/
Proposed Plaintiffs 5-7



C.R.P(MD)Nos.442 to 444 of 2023

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 06-01-2023 passed in I.A.No. 3 of 2022 in O.S.No. 71 of 2015 on the file of the learned Additional District Court, Nagercoil, Kanyakumari District.

C.R.P(MD)No.443 of 2023:

E.Antony Doss George ... Petitioner/Respondent/
Defendant

Vs.

1.R.S.Wind Tech Engineering (P) Ltd.,
Aralvoimozhy,
Represented by its Managing Director,
J.Rajasekar ... 1st Respondent/1st Petitioner/
1st Plaintiff

2.R.Iyyappan ... 2nd Respondent/2nd Petitioner/
3rd Plaintiff

3.R.Kingsley ... 3rd Respondent/3rd Petitioner/
4th Plaintiff

4.Selvakumari

5.R.Princeslus

6.R.Stephy ... Respondents 4-6/Petitioners 4-6/
Proposed Plaintiffs 5-7

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 06-01-2023 passed in I.A.No. 1 of 2022 in O.S.No. 71 of 2015 on the file



C.R.P(MD)Nos.442 to 444 of 2023

of the learned Additional District Court, Nagercoil, Kanyakumari District.

C.R.P(MD)No.444 of 2023:

E.Antony Doss George

... Petitioner/Respondent/
Defendant

Vs.

1.R.S.Wind Tech Engineering (P) Ltd.,
Aralvoimozhy,
Represented by its Managing Director,
J.Rajasekar.

... 1st Respondent/1st Petitioner/
1st Plaintiff

2.R.Iyyappan

... 2nd Respondent/2nd Petitioner/
3rd Plaintiff

3.R.Kingsley

... 3rd Respondent/3rd Petitioner/
4th Plaintiff

4.Selvakumari

5.R.Princeslus

6.R.Stephy

... Respondents 4-6/Petitioners 4-6/
Proposed Plaintiffs 5-7

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 06-01-2023 passed in I.A.No.2 of 2022 in O.S.No.71 of 2015 on the file of the learned Additional District Court, Nagercoil, Kanyakumari District.



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For Petitioner : Mr.M.P.Senthil
(In all cases)

ORDER

The present revision petitions have been filed by the defendant in a suit for recovery of money.

2. According to the learned counsel appearing for the petitioner, a suit was filed on 12.11.2011 and the 2nd plaintiff had passed away on 18.07.2012. However, the suit came to be numbered only in the year 2015 as O.S.No.71 of 2015. The plaintiffs have not taken any steps to implead the legal heirs of the deceased 2nd plaintiff.

3. According to the learned counsel appearing for the petitioner, an impleading petition was filed in the year 2013 and the same has been returned by the office on 03.06.2013 and the same was represented only on 19.10.2022. Thereafter, the application has been numbered as I.A.No. 3 of 2022. The petitioner was directed to file his counter by 06.01.2023. Since the petitioner has to gather all these materials from the Court records, he could not file his counter on the said date. Therefore, the



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petition was allowed on 06.01.2023 on the ground that no counter has been filed by the defendant. Challenging the said order, the present revision petition has been filed.

4. The learned counsel for the petitioner contended that the plaintiff had filed another 2 applications to condone the delay in setting aside the abatement and an application to set aside the abatement. All the 3 applications have been allowed on the ground that no counter has been filed by the defendant.

5. According to the learned counsel for the petitioner, even today the 1st plaintiff continues to be represented by a deceased person. Therefore, unless opportunity had been given to the defendant, he could not place these matters before the trial Court.

6. I have carefully considered the submissions made on either side.

7. The question of abatement would arise only after the numbering of the plaint. In the present case, the plaintiff had passed away even before numbering of the plaint. Therefore, the issue of abatement or



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condone delay would not arise. But only by way of abundant caution, these applications have been filed. However, it could be seen from the records that the application for condone delay in representation has not been filed. Now that, the 2nd plaintiff's legal heirs have already been impleaded. This Court does not like to interfere in the said order. However, the defendant is at liberty to raise the issue relating to the fact that the company continues to be represented by a deceased person and there are other procedural irregularities in the said suit.

8. With the said observations, these three petitions stand disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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- To
- 1.The Additional District Court,
Nagercoil,
Kanyakumari District.
 - 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)Nos.442 to 444 of 2023

23.02.2023