



C.R.P.(MD)Nos.122 & 123 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)Nos.122 & 123 of 2019

and

C.M.P.(MD)No.572 of 2019

Ramakrishnan

... Petitioner/ 3rd Respondent/ 3rd

Respondent in both C.R.Ps.

Vs.

1.J.Santharam

2.J.Sujakaran

3.R.Rajeswari

... Respondents 1 to 3/Petitioners/

Proposed parties in both C.R.Ps.

4.Padmanabhan

5.Bhaskaran

6.Sree Padmambal

7.Thangammal

8.Murugesan

9.Sivapatha Sekar

10.Sankar

11.Chandrasekaran

12.Baskar

13.Kanagasabapathy

14.Kumaraguruparan



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15.Sarojini

16.Kasthuri

17.Sivakala

18.Neelampika

19.Kirupakaran

2021.Pirakaspathi

21.Omanabai

22.Azhakia Nayaki

23.Ponni

24.Anitha

25.Karunakara Marthandam

26.Pon Neelavadvu @ Reghu

27.Santhakumari

28.Ponnuswamynathan

29.Rajaram

30.Vaitheki ... Respondents 4 to 30/Respondents 1,2,4 to 28 /

Respondents 1,2,4 to 28

(R4 to R30 are set exparte before the Lower Court.

Hence notice to R4 to R30 may be dispensed with)

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order, dated 10.09.2018, passed in I.A.Nos.31 and 32 of 2006, in A.S.No.63 of 2005, on the file of the Principal District Judge, Kanyakumari at Nagercoil.



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C.R.P.(MD)Nos.122 & 123 of 2019

(In both C.R.Ps.)

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.K.Sreekumaran Nair for R1 to R3

COMMON ORDER

The instant Civil Revision Petitions have been filed, against the fair and decretal order, dated 10.09.2018, passed in I.A.Nos.31 and 32 of 2006, in A.S.No.63 of 2005, on the file of the Principal District Judge, Kanyakumari at Nagercoil.

2. The revision petitioner, in both petitions, is the third respondent before the Court below. The respondents 1 to 3 herein are the proposed parties and the petitioner before the Court below. According to the revision petitioner, he is the legal heir of second appellant-Jeyadev, who died on 04.09.2005. The proposed parties have filed an application to implead them as the legal representatives of the second appellant-Jeyadev.

3. It appears from the records that there was a delay of 60 days in filing the application for impleading the legal representative. However, the third respondent, who is the revision petitioner herein, has objected the very status of the petitioner, being the wife and children of deceased



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Jeyadev. However, the learned trial Judge has allowed the application on 14.11.2008, by setting revision petitioner / 3rd respondent *exparte*. Thereafter, the *exparte* order was set aside on 21.11.2012, and ultimately allowed the application on 10.09.2018.

4. According to the petitioner, the learned trial Judge has again allowed the impleading application on the ground that in pursuance of the *exparte* order, all the legal heirs were already been impleaded in the appeal, hence, to avoid technical issue, the application was allowed on 10.09.2018. Aggrieved with the order of the Court below, in allowing the application, the third respondent has preferred the instant Revision Petition.

5. It is the submission of the learned counsel for the revision petitioner that when the trial Court has set aside the *exparte* order and also heard the arguments on either side, there is a duty cast upon the Court below, to pass the order on merits.

6. Though the learned counsel for the petitioner stoutly objected the application before this Court, the learned counsel for the respondents 1



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to 3 has submitted the list of documents such as legal heirs certificate, ration card and the death certificate of the deceased Jeyadev.

7. On perusal of the documents, *prima facie*, this Court is of the view that the order passed by the trial Court in impleading the proposed party is bound to be confirmed. However, the objection by the petitioner is that the proposed parties are not at all the legal heir of the deceased Jeyadev.

8. Considering the rival submissions, though this Court is inclined to dismiss the Civil Revision Petition, in the interest of justice, an opportunity is to be given to the revision petitioner to challenge the status of the proposed parties as the legal heirs of the deceased Jeyadev, before the first Appellate Court according to law.

9. With the above observation, the instant Civil Revision Petitions stand disposed of. No costs. Consequently, connected C.M.P. is closed.

12.07.2023

NCC : Yes/No
Index : Yes/No
Ls



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C.KUMARAPPAN.,J.

Ls

To

- 1.The Principal District Judge,
Kanyakumari at Nagercoil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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