



C.R.P(MD)No.203 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.08.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.203 of 2019

and

C.M.P(MD)No.893 of 2019

1.Sulochana

2.Prakash

3.Brindha

4.Praveen Kumar

5.Sathish Kumar

6.Rajesh

...Petitioners/Respondents/
Defendants

Vs.

Murugesan (Died)

1.Thangam

2.Thilagam

3.Malathi

4.Rajamanickam

5.Suresh

6.Arun

...Respondents/Petitioners/
Proposed Plaintiffs



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.10.2018 in I.A.No.473 of 2018 in O.S.No.132 of 2018 on the file of the Sub Court, Lalgudi.

For Petitioners : Mr.V.Sasikumar

For R1 to R6 : Mr.K.Hemakarthiskeyan

ORDER

This civil revision petition has been filed against the order passed by the Sub Court, Lalgudi in I.A.No.473 of 2018 in O.S.No.132 of 2018, dated 23.10.2018.

2. For the sake of convenience, the parties will be referred as per the litigative status before the Trial Court. The petitioners herein are the respondents/defendants and the respondents herein are the petitioners/proposed plaintiffs before the Court below.

3. The petitioner/plaintiff has filed a suit for partition. When the suit was pending, the sole plaintiff died on 05.10.2013. Therefore, the other legal heirs of the deceased plaintiff filed an application to implead themselves as the plaintiffs. It appears that there was a delay of 889 days in filing such application.



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4. However, the respondents/defendants objected the application on the ground that the reason assigned in the petition is not believable. Therefore, prayed to dismiss the application.

5. The Trial Court after considering either side submission has ultimately allowed the application on payment of cost.

6. I have given my anxious consideration to either side submissions.

7. The sum and substance of the contention of the respondent is that delay in impleading the proposed plaintiffs cannot be condoned. It is a settled principle of law that while impleading the legal representatives, the Court should not be more hyper technical. Even in the judgment of the Hon'ble Supreme Court in the case of *K.Rudrappa vs Shivappa* reported in **2004 12 SCC 253**, it has been held that even if there is no application for delay condonation and set aside the abatement to implead the legal heirs, prayer for impleading should not be declined. Therefore, in view of the above settled principle of law, this Court could not find any justification to interfere with the order of the Court below. The



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learned Trial Judge is directed to dispose of the suit in O.S.No.132 of 2018 as expeditiously as possible preferably within a period of 6 months from the date of receipt of copy of this order.

8. In the result, this Civil Revision Petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2023

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

1.The Sub Court,
Lalgudi.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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