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C.R.P(MD)No.890 of 2020



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.890 of 2020

1.M.Umapathi
2.P.Prabakaran
3.T.Thanraj
4.J.Kulandhivel
5.P.Padmaragavan
6.Senthilkumar

... Petitioners/Petitioners/
Proposed appellants 3 to 8

Vs.

R.Thiruppathi(Died)

1.S.Chinnaiyan alias Alagarsamy
2.Rajagopal Naidu
3.N.Krishnamoorthi alias Kannan
4.R.Chandrasekar
5.R.Manoharan
6.G.Nagalakshmi
7.S.Shanthi
8.D.Srinivasan

... Respondents/Respondents/
Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.03.2020 passed in I.A.No.100 of 2018 in A.S.No.61 of 2017 on the file of the Principal Subordinate Judge, Dindigul and allow the present civil revision petition.



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For Petitioners :Mr.N.S.Karthikeyan
For R1 :Mr.V.Palanichamy
For R2,R3,R5toR7 :Mr.R.Shankar Ganesh
for M/s.Dictum Law Firm

ORDER

When the matter is taken up for hearing today, the learned counsel appearing for the respondent Nos.2,3,5to7 submitted that since the suit is filed in the representative capacity, it is not necessary to implead the legal heirs of the first respondent. He has also filed a memo dated 19.07.2023 to that effect, which is extracted hereunder:

“This memo is being filed to the effect that the legal heirs need not be impleaded as he has been representing effectively through his brothers and sisters ie., the respondents No.5 to 7.”

The said memo is recorded. Notice to the fourth respondent is dispensed with.

2.With the above observation, this civil revision petition is disposed of. No costs.

19.07.2023

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

- 1.The Principal Subordinate Judge,
Dindigul.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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C.R.P(MD)No.890 of 2020

19.07.2023



C.R.P(MD)No.890 of 2020

K.GOVINDARAJAN THILAKAVADI, J.

Today, the matter is listed under the caption 'for being mentioned'.

2.The order passed by this Court on 19.07.2023 shall be replaced by the following order:

“This civil revision petition is filed against the fair and decretal order dated 06.03.2020 passed in I.A.No.100 of 2018 in A.S.No.61 of 2017 by the Principal Subordinate Judge, Dindigul.

2.The petition in I.A.No.100 2018 filed by the proposed parties to implead them in the appeal suit as appellants, since the appellants who preferred an appeal died on 14.12.2017. However, the learned Principal Subordinate Judge, Dindigul, dismissed the above application stating that the second appellant can proceed with the appeal suit and therefore, there is no necessity to implead the proposed parties in the said appeal suit. The learned Judge has further observed that based on the resolution passed in the General Meeting, the proposed parties cannot be impleaded as appellants in the appeal suit. Against which, the present revision is preferred.



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3.Pending the Civil Revision Petition, the fourth respondent died and hence, a memo was filed stating that since the suit is filed against the fourth respondent in the capacity of representative of the persons, who are all claiming as legal heirs of one Muthunagama Naicker, the necessity of impleading his legal heirs does not arise.

4.The said memo is accepted and recorded. However, with regard to the subject matter of this revision petition, the first appellate Court has rightly held that since the second appellant is available to proceed with the appeal suit, there is no necessity to implead the proposed petitioners as appellants in the appeal suit. Therefore, there is no infirmity found in the order passed by the Court below. Accordingly, this petition is dismissed, since the above suit is filed in representative capacity.”

3.Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties concerned.

08.08.2023

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