



C.M.P.(MD) No.8607 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.P.(MD) No.8607 of 2019

in

C.R.P.(MD) SR.No.43685 of 2015

Madasamy Mudhaliar

... Petitioner

Vs.

Arockiasamy (Died)

1.Mariya Natchathram

2.Amulraj

Divyanathan (Died)

3.Irudhayamary

4.Sagayanadhan

5.Lordhu

6.Jebamalai

7.Soosai

8.Jerald

9.Jerald Raja

10.Alphonse



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11.Josbin

12.Gobi

13.Anthonisamy

14.Yesudhoss

15.Sandhiyagu

Soosayammal (Died)

16.Ukkiramary alias Rojali

17.Savariraj

18.Lourdhusamy

19.Selvaraj

20.Violet Rani

21.Sebastin

22.Niyol

23.Berland

24.Raju

25.Arockiamary

26.Sandhiyagu

27.Adaikalamary

28.Sesharaj



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29.Sagayaraj

30.Paulraj

31.Minor Packiaraj
rep. By his mother and natural guardian
27th respondent

32.Elisabeth Rani

33.Mardhal

34.Amalorpavamary

35.Sebastin

36.Gunaseeli

37.Adaikalamary

38.Arumugam

39.Jeyam

40.Selvi

... Respondents

RR1 to 16, 18, 19 & 23 to 29 - Exparte
RR20, 21, 22, 30 33 & 39 - Dismissed

Prayer in C.M.P.: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, to condone the delay of 757 days in filing the present Civil Revision Petition.

Prayer in C.R.P.: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated



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19.03.2013 made in I.A.No.237 of 2012 in I.A.No.229 of 2009 in A.S.SR.No.1442 of 2009 on the file of the Principal District Court, Trichy.

For Petitioner : Mr.J.Maria Roseline

For RR17, 32, 34, 40 : No appearance

ORDER

When this case is taken up for hearing, Mr.J.Maria Roseline, the learned counsel on record for the petitioner submits that the petitioner has withdrawn the vakalat and to that effect, a Memo has been filed by the learned counsel on record for the petitioner. However, on perusing the Memo, it is noticed that the Memo has only been filed on 19.11.2019, wherein, it has been stated as follows:-

1. It is respectfully submitted that as per order of this Hon'ble Court dated 27.09.2019, notice was taken to the contesting respondents and as far as notice regarding respondents 35 to 38, as per cause list endorsement, the notice was returned as "Deceased". As per instruction received from the petitioner R36 Gunaseeli is alive. In fact the private notice sent to the Respondent 36 was returned as "No such Addressee". It is therefore just and necessary that the Hon'ble Court may be pleased to order fresh notice to respondent 36.



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2. As far as respondent 35 i.e. Sebastin (Died) is concerned, he is already represented by his legal heir i.e. his daughter in law R36.
3. As far as respondents 37 & 38 are concerned, they are husband and wife and the notice to the said respondents has been returned as “Deceased”. The legal heirs of the respondents 37 & 38 are as follows:-
 - i. Raja, Grandson of Arumugam through his son (late) Chandru
 - ii. Ravi Son of (late) Arumugam

The above details may be recorded and the petitioner be kindly permitted to take steps as far as deceased respondents 37 & 38

This humble memo may be recorded to that effect.

Dated at Madurai on this the 19th day of November, 2019.

2. Therefore, the above Memo cannot be taken on record for withdrawal of vakalat. However, on perusing the court records, it is noticed that this Civil Miscellaneous Petition has been filed to condone the delay of 757 days in filing the present Civil Revision Petition and is coming up for hearing regularly. For taking steps, at request of the learned counsel on record for the petitioner, this case was adjourned from time to time.



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C.SARAVANAN, J.

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3. The Civil Revision Petition is also at the S.R. stage since 2015. Therefore, the petitioner appears to be not interested in pursuing the remedy in the Civil Revision Petition as till date no steps have been taken to serve notice on the contesting respondents. Today also, several attempts were made stating that the petitioner has withdrawn the vakalat. There is no excuse for keeping the proceedings pending for almost 8 years without taking steps.

4. Therefore, this Civil Miscellaneous Petition is dismissed. Consequently, the Civil Revision Petition is also dismissed at the S.R. stage. No cost.

12.06.2023

Internet: Yes/No

Index: Yes/ No

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To

The Principal District Court, Trichy.

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