



C.R.P(MD)No.363 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.R.P.(MD)(PD)No.363 of 2015

1.Ajitha
2.P.A.Snekha
3.P.A.Swathy

... Petitioners/Petitioners/Plaintiffs

Vs.

Prasanakumar

... Respondent/Respondent/Defendant

PRAYER: This Civil Revision Petitions are filed under Article 227 of the Constitution of India against the unnumbered I.A.SR.No.7868 of 2014 in O.S.No. 42 of 2014 on the file of the First Additional District Kuzhithurai Kanyakumari District.

For Petitioner : Mr.S.Rama Krishnan

ORDER

This Civil Revision Petition is filed against the unnumbered I.A.SR.No. 7868 of 2014 in O.S.No.42 of 2014 on the file of the I Additional District Munsif, Kuzhithurai, Kanyakumari District.



2. The learned counsel for the petitioners submitted that the learned I Additional District Munsif, Kuzhithurai, refused to number the application in I.A.SR.No.7668 of 2014 filed to restore the suit in O.S.No.42 of 2014 which was dismissed on 30.04.2014, for the reason that the previous order passed in I.A.No. 87 of 2014 by the Court to effect substituted service of summons on the defendant in all the editions of Dinamalar circulated throughout the State of Tamil daily having circulation through out Tamil Nadu has not been fully complied with by the revision petitioners/plaintiffs.

3. The learned counsel for the revision petitioners would further submit that the first petitioner was already abandoned by her husband and she is striving to meet her day-to-day livelihood and in such circumstances, it would not be possible for her to expend as much as of Rs.70,000/- for effecting substituted service in a Tamil daily having circulation throughout Tamil Nadu and the Court may accept the substituted service, which was already effected by the petitioner in a Tamil daily, which had circulation in the District of Kanyakumari alone. The learned I Additional District Munsif, Kuzhithurai, has not accepted the submission made by the revision petitioners/plaintiffs and refused to number the Interlocutory Application.



4. In my considered opinion, this is a peculiar case, where an abandoned wife has knocked the door of the I Additional District Munsif at Kuzhithurai to declare that the respondent/the defendant is dead, since her husband left the family on 17.10.2001 in lured and went unheard for the past 12 years. Without declaring him as dead, the first petitioner would not have any opportunity to inherit the property left by him and other benefits of the various social welfare measure.

5. In view of the pitiable family condition of the petitioners, in my considered opinion, the trial Court failed to consider the economic barriers of the first petitioner and her inability to expend Rs.70,000/- as early as in the year 2014 and now with the efflux of time of more than 7 years, cost would be even more.

6. In such circumstances, this Court is inclined to set aside the order passed by the trial court in I.A.SR.No.7868 of 2013 on 18.12.2014 and remand back I.A.SR.NO.7868 of 2014 to the file of the I Additional District Munsif, Kuzhithurai. The learned trial court is directed to restore O.S.No.42 of 2014 by setting aside the order of dismissal dated 30.04.2014 and further give another opportunity to the revision petitioners/plaintiffs to effect service of summons in Malaimalar having wide circulation in Kanyakumari District. Accordingly, I.A.SR.No.7868 of 2014 is remanded back to the file of the I Additional District



C.R.P(MD)No.363 of 2015

Munsif, Kuzhithurai.

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7. After effecting substituted service of summons as stated above, the learned I Additional District Munsif, Kuzhithurai, Kanyakumari District, is directed to proceed with the suit and after completion of trial process, dispose of the suit as expeditiously as possible preferably on or before **30.08.2023**.

8. In fine, this Civil Revision Petition is allowed. No costs.

23.06.2023

Index : Yes/No

Internet : Yes/No

CM

Note: Issue order copy on 23.06.2023

The Registry is directed to return the original Interlocutory Application to the learned counsel for the petitioner.

To

1. The I Additional District Munsif,
Kuzhithurai, Kanyakumari District.

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



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C.R.P(MD)No.363 of 2015

L.VICTORIA GOWRI, J.

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C.R.P.(MD)(PD)No.363 of 2015

23.06.2023