



C.R.P.(MD).No.1493 of 2017

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 21.08.2023**

**CORAM:**

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

C.R.P.(PD)(MD)No.1493 of 2017

Sivan ... Petitioner/2<sup>nd</sup> Respondent/  
2<sup>nd</sup> Defendant

-VS-

1. Annamalaiammal (Died) ... 1<sup>st</sup> Respondent/Respondent  
1<sup>st</sup> Defendant

2. S.Vignesh @ Vigneshwaran ... 2<sup>nd</sup> Respondent/Petitioner/  
Plaintiff

3. Murugesan

4. Muthukumar ... Respondents/Respondents/  
Defendants 3 and 4

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.No.352 of 2015 in O.S.No.5 of 2011, dated 30.10.2015 on the file of the District Munsif Court, Senkottai.

For Petitioner : Mr.T.Indrachithu

For Respondents : Mr.V.Meenakshi Sundaram – for R2



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## **ORDER**

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The present Civil Revision Petition has been filed by the petitioner under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.No.352 of 2015 in O.S.No.5 of 2011, dated 30.10.2015 on the file of the District Munsif Court, Senkottai.

2. The petitioner herein is the 2<sup>nd</sup> Respondent/2<sup>nd</sup> defendant. The 2<sup>nd</sup> respondent is the petitioner/plaintiff, and the respondents 3 and 4 are the respondents/defendants 3 and 4 before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. The short facts which give rise to the instant Civil Revision Petition are that, the petitioner/plaintiff has filed an application seeking a prayer to record that, there is no need to implead the legal heirs of the first defendant, since the first defendant had only the life interest, and that after her demise, the property will devolve upon the legatee in whose name the vested remainder was bequeathed.



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5. However, the second defendant/petitioner herein has objected the said contention and contended before the Court below that the life interest of the first defendant viz., Annamalaiammal has enlarged to an absolute right and therefore, all the legal heirs of the first defendant viz., Annamalaiammal, have to be impleaded.

6. When this application was taken by the Court below, the Court below is of the view that since Annamalaiammal was having only the life interest, and that the plaintiff being the person, who has got vested remainder, there is no necessity to implead all the legal heirs of the Annamalaiammal and allowed the application.

7. Aggrieved with the above order, the petitioner/second defendant has come up with the instant Civil Revision Petition before this Court.

8. The learned counsel appearing for the revision petitioner/second defendant would submit that, since he is objecting the limited right of the late Annamalaiammal, and, when they contend that the Annamalaiammal's right is



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absolute, all the legal heirs needs to be impleaded.

9. However, the learned counsel appearing for the second respondent would vehemently object the said contention and would submit that after the death of Annamalaiammal, no other legal heirs needs to be impleaded.

10. This Court has given anxious consideration to the submissions of the learned counsel for the petitioner and the learned counsel for the second respondent.

11. From the submissions on the either side, the sum and substance to decide the issue involved in this case is, whether all the legal heirs of Annamalaiammal needs to be impleaded or not. In this connection, the main contention put forth by the learned counsel for the second respondent is that Annamalaiammal had only the life interest and therefore, after her demise, the entire right will devolve upon the plaintiff, who has been bequeathed with the vested remainder.



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12. Though the said Will was accepted by the second defendant in his written statement, he took a different stand and would submit that the said limited right will enlarge into an absolute right, and therefore, he contended that all the legal heirs have to be impleaded.

13. When one of the defendants is objecting the limited rights of the deceased Annamalaiammal, though the Will contains the recitals of bequeathing only the limited interest upon the Annamalaiammal, and when there is a specific contention put forth by one of the defendants that Annamalaiammal's right is absolute, this Court is of the view that all the legal heirs needs to be impleaded so as to adjudicate the issue in a comprehensive manner. It is pertinent to mention here that, when a material proposition of law and fact denied by the other party, for better adjudication Annamalaiammal legal heir become necessary and proper party. Therefore, this Court finds the ground to interfere with the order of the trial Court.

14. In the result, this Civil Revision Petition stands **allowed** and the plaintiff is directed to move an application to implead all the legal heirs of Annamalaiammal. If any application is filed to implead the legal heirs of



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Annamalaimmmal, the trial Court is directed to dispose of the same as expeditiously as possible, and dispose of the suit ultimately within a period of six months from the date of receipt of the copy of this order. There shall be no order as to costs.

**21.08.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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To  
1. The District Munsif Court,  
Senkottai.



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**C.KUMARAPPAN,J.**

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