



C.R.P.(MD).No.1499 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.1499 of 2017
and
C.M.P(MD) Nos.8036 and 8037 of 2017

Muruganandam

... Petitioner/4th Respondent/
4th Defendant

-vs-

1. Chinnathai (Died)
2. Arukkani (Died)

... Respondents 1 and 2/ Petitioners
/ Plaintiffs

Shanmugam (Died)

3. Banumathi
4. Manimegalai
5. Sentheer
6. Selvarani
7. Kandavel
8. Minor Suganya
D/o.Kandavel

9. Minor Suba Mithra
D/o.Kandavel

(Minor respondents 8 and 9 are represented by
their mother Arunamathi)

... Respondents 3 to 9/
Respondents 2, 3, 5 to 9/
Defendants 2, 3, 5 to 9



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(The Respondents 3 to 7 set *ex parte* in lower Court)

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10. R.Jeyamani

11. S.Elango

(Respondents 10 and 11 are brought on record as legal heirs of the deceased first respondent vide order of this Court dated 16.08.2023 made in C.M.P(MD) Nos. 7169 to 7171 of 2023 in C.R.P(MD) No.1499 of 2017).

12. S.Krishnasamy

13. S.Ramalingam

14. A.Tharunkumar

(Respondents 12 to 14 are brought on record as legal heirs of the deceased 2nd respondent vide order of this Court dated 16.08.2023 made in C.M.P(MD) Nos 7613, 7617 and 7620 of 2023 in C.R.P(MD) No.1499 of 2017).

... Proposed respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.07.2017 passed in I.A.No.359 of 2016 in O.S.No.327 of 2013 on the file of the learned Principal Subordinate Judge, Karur.

For Petitioner : Mr.J.Anandhavalli

For Respondents : Mr.E.K.Kumaresan – for R1 and R2
: R3 to R7 – *ex parte*
: No appearance for R 8 and R9



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ORDER

The instant Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.07.2017 passed in I.A.No.359 of 2016 in O.S.No.327 of 2013 on the file of the learned Principal Subordinate Judge, Karur.

2. The petitioner herein is the 4th defendant and the respondents 1 and 2 are the plaintiffs 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 plaintiffs have filed an application for withdrawal of suit with liberty to file a fresh suit. However, the said application was resisted by the defendants by contending that if the suit is withdrawn, their right would be prejudiced. However, the Court below has allowed the application. Aggrieved with the said order, the 4th defendant is before this Court.



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5. The learned counsel for the petitioner/4th defendant would vehemently submit that though the petitioner has stated so many reasons which was objected by the 4th defendant, the Court below without taking into consideration all the defences put forth by the petitioner, by way of an one line order, has allowed the application. Therefore, he would submit that the order is perverse and liable to be interfered with.

6. Per contra, the learned counsel appearing for the respondents 1 and 2 would strongly object the said contention and would submit that notwithstanding the reasons, the ultimate decision of the Court below is in accordance with law and therefore, it does not require any interference.

7. This Court has given anxious consideration to the submissions of the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2.

8. Before embarking into the merits of the matter, this Court deems it appropriate to see whether the order of the Court contains any reason. It is pertinent to mention here that the affidavit in the petition stated so many



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reasons as to why he seeks the relief for withdrawal of the suit with liberty to file a fresh suit, and which was also objected by the 4th defendant. The Court below without going into the merits of the matter and without even discussing the objections put forth by the respondents, has allowed the application by cryptic order. Therefore, this Court is of the view that the order of the Court below is liable to be interfered with as the same is perverse.

9. In the result, this Civil Revision petition stands **allowed** and the order passed in I.A.No.359 of 2016 is ordered to be set aside and at the same time, in the interest of justice, the matter is remitted back to the Court below to dispose of the said application according to law within a period of six weeks from the date of receipt of the copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

20.09.2023

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

1. The Principal Subordinate Judge,
Karur.

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C.KUMARAPPAN,J.

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