



C.R.P.(MD)No.3360 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATE : 22.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3360 of 2023

1.N.Thennappan

2.Parvathi

3.Rajalakshmi

4.Meena

5.Rathna Kumari

: Petitioners/Plaintiffs

Vs.

1.The Tahsildar,
Taluk Office,
Dr.Murthy Road,
Kumbakonam.

2.Government of Tamil Nadu,
Rep.by its District Collector,
District Collectorate,
Nagai-Kovai National Highway,
AVP Azhagammal Nagar,
Thanjavur – 613 010.

: Respondents/Defendants



C.R.P.(MD)No.3360 of 2023

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Principal District Munsif, Kumbakonam to take the petition on file and to number the unnumbered O.S.Sr No.5316 of 2023 within a time stipulated by this Court.

For Petitioners : Mr.H.Lakshmi Shankar

For Respondents : Mr.J.John Rajadurai,
Government Advocate (Civil Side)
for R1 and R2.

ORDER

The Civil Revision Petition is directed against the order of return in unnumbered O.S.Sr No.5316 of 2023.

2. The revision petitioners as plaintiffs have filed the above suit to declare that the plaintiffs 1, 2, 4 and 5 are the legal heirs of the deceased Nagarajan and for consequential relief of mandatory injunction to direct the defendants to issue legal heir certificate to the plaintiffs. The learned trial Judge, has returned the plaint by raising a query as to how the suit is maintainable, in view of the G.O.Ms.No.478, dated 29.09.2022, which states that the legal heir certificate can be obtained from the Tahsildar Office.



C.R.P.(MD)No.3360 of 2023

3. The learned counsel for the petitioners would submit that the plaintiffs have represented the same by making endorsement that the above Government Order has no application and moreover, the competent Civil Court has to decide about the status of the parties, whether the plaintiffs are the legal heirs of the deceased Nagarajan, but the learned trial Judge has again returned the plaint as the earlier query was not complied with.

4. The learned counsel for the petitioners would further submit that the Tahsildar of Kumbakonam has rejected their application by observing that the deceased person had two wives and directed the applicant to get the legal heirship certificate through the Court and that despite the above order passed by the Tahsildar, the learned District Munsif has again returned the plaint.

5. The learned counsel for the petitioners would further submit that the Government Order in G.O.Ms.No.478, was issued for issuing legal heirship certificate with regard Class-I and II heirs; that since the deceased in the present case had two wives and the daughters of second wife and sons and daughter of the first wife applied legal heirship certificate before



C.R.P.(MD)No.3360 of 2023

the Tahsildar, Kumbakonam, he directed the plaintiffs to approach the appropriate Civil Court and only on that basis, the above suit came to be filed before the Principal District Munsif Court, Kumbakonam.

6. Considering the above facts and circumstances of the case and also the submissions made by the learned counsel for the petitioners, the impugned order of return is not proper and is not in accordance with law. Hence, the learned Principal District Munsif, Kumbakonam, is directed to take the plaint on file, if it is otherwise in order and proceed in accordance with law.

7. With the above directions, the Civil Revision Petition is allowed.
No costs.

22.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

Note :The Registry is directed to return the original petition, filed along with this revision to the learned counsel for the revision petitioner, retaining a copy of the same.



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C.R.P.(MD)No.3360 of 2023

To

1. The Principal District Munsif, Kumbakonam.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.3360 of 2023

K.MURALI SHANKAR,J.

das

C.R.P.(MD)No.3360 of 2023

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