



WEB COPY



C.R.P. No.492 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.492 of 2019

V.N. Devadoss S/o. Late P.V. Narasimhan

... Petitioner

vs.

Jayammal (died)

1. M.K. Deenadayalu (died) S/o. Late M.R. Krishnasamy Naidu
2. M.K. Thulasidharan (died) S/o. Late M.R. Krishnasamy Naidu
3. M/s. Murali Brick Works
4. The Sub Registrar, Konnur.
5. The Sub Registrar, Saidapet.
6. J. Vijayalakshmi W/o. Late M.K. Janardhanam
7. M.J. Sathyanarayana S/o. Late M.K. Janardhanam
8. S. Geetha Saraswathy D/o. Late M.K. Janardhanam
9. R. Ramadevi W/o. V.K. Ramamoorthi
10. G. Prabhakar S/o. Late G. Gajapathy
11. G. Sudhakar S/o. Late G. Gajapathy
12. M.D. Ramprasad S/o. M.K. Deenadayalu
13. T. Banumathy W/o. M.K. Thulasidharan

[12th and 13th respondents brought on record as legal representatives of 1st and 2nd respondents respectively vide orders dated 01.03.2023 passed in C.M.P. Nos.300 to 302 of 2023 and 303,305 and 313 of 2023 respectively]

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 12.09.2018 made



C.R.P. No.492 of 2019

in I.A. No.974 of 2017 in O.S. No.136 of 2004 on the file of the learned II

Additional District Judge, Tiruvallur at Poonamallee.

For Petitioner : Mr.V. Ayyapparaja

For Respondents : R1 & R2 – died
No appearance [for R1 to R3]

Dr. S. Suriya
Government Advocates [for R4 & R5]

Mr. Sunil Prakash
for M/s. T. Viswanatha Rao
[for R6 to R11]

Not ready in notice [for R12 & R13]

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner to implead the respondents 6 to 11 who are all the legal representatives of the deceased Jayammal / 1st defendant in the Suit.

2. According to the petitioner, he filed a Suit for permanent injunction against the respondents 1 to 5 in O.S. No.136 of 2004. Pending suit, the 1st defendant Jayammal died. Some of the original heirs of Jayammal were



C.R.P. No.492 of 2019

already on record as defendants 2 and 3. The instant applications have been filed to bring the other legal representatives of deceased Jayammal on record.

One of the son of Jayammal namely M.K. Janarthanam, pre-deceased her leaving behind the respondents 6 to 8 as his legal representatives. Another daughter of Jayammal namely Janobai died in the year 2017 leaving behind the respondents 9 to 11 as her legal representatives. Therefore the instant applications have been filed to implead the respondents 6 to 11 who are other legal representatives of deceased Jayammal. The said application has been dismissed by the Trial Court mainly on the ground of delay.

3. It is stated in the impugned order that, death of Jayammal was informed to the petitioner as early as in 2008 under Ex.R.12 and inspite of the same, the application had been filed only in the year 2017. It is further stated by the Trial Court that the petitioner is not entitled to file a single application to bring on record the legal representatives of deceased Jayammal and Janobai, who died on different dates in 2008 and 2017. The reasoning given by the Trial Court is not acceptable to this Court.



C.R.P. No.492 of 2019

4. In view of the fact that some of the legal representatives of the deceased Jayammal were already on record as defendants 2 and 3. There is no abatement of suit as against Jayammal. The instant application has been filed only to bring on record the other left out legal representatives. Since there is no abatement, there is no necessity to file condone delay petition. Hence, the petitioner is not required to show any sufficient cause for filing legal representative petition belatedly. The Estate of Jayammal is already represented by the defendants 2 and 3 and now the petitioner wants to bring on record the other legal representatives. Allowing of the Civil Revision Petition to bring on record the other legal representatives, will not cause any prejudice to the petitioner.

5. Accordingly, the Civil Revision petition stands allowed by setting aside the order impugned in this revision, dated 12.09.2018 made in I.A. No.974 of 2017 in O.S. No.136 of 2004. As a necessary consequence, the I.A. No.974 of 2017 stands allowed. No costs. Connected miscellaneous petition is closed.

13.03.2024

Index : Yes / No



C.R.P. No.492 of 2019

Speaking order : Yes / No

Neutral Citation : Yes / No

WEB COPY mjs

To
The II Additional District Judge,
Tiruvallur at Poonamallee.



WEB COPY



C.R.P. No.492 of 2019

S.SOUNTHAR, J.

mjs

C.R.P. No.492 of 2019

13.03.2024