



WEB COPY



CRP.No.1253 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08.02.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CRP.No.1253 of 2021**  
**and**  
**CMP.No.9781 of 2021**

Mohammed Alkaf

...Petitioner

Vs.

M.A.Yacoob (Deceased)

1.Arifa Begum  
2.Rahemad Nachiya

...Respondents

(The cause title accepted vide Court  
order dated 27.04.2021 in CMP.No.7768/2021  
in CRP.SR.No.10572 of 2021)

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree of the XVIII Additional Judge, City Civil Court, Chennai dated 04.01.2021 made in IA.No.3 of 2019 in OS.No.1622 of 2019 and allow the IA.No.3 of 2019.



CRP.No.1253 of 2021

For Petitioner : Mr.A.Arulmozhi

For Respondents : Mr.V.R.Appaswamee for R1 & R2

### **ORDER**

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking dismissal of the main suit in OS.No.1622 of 2019 on the ground that it was already abated.

2. The father of the petitioner herein namely one M.A.Yacoob filed a suit seeking declaration that the sale deed in favour of the petitioner herein who is his son registered as Doc.No.1885/ 2015, SRO, Royapuram, Chennai, is null and void and consequently for permanent injunction. The father of the petitioner is the plaintiff in the suit dated 28.09.2019. Thereafter, the respondents herein claiming them as daughters of the deceased plaintiff filed an application through their power of attorney to bring them on record as plaintiffs in IA.No.2 of 2019. The respondents also filed IA.No.1 of 2019 seeking permission to the power of attorney of the respondents to file vakalat



CRP.No.1253 of 2021

on their behalf.

WEB COPY

3. The petitioner herein filed an application seeking dismissal of the suit on the ground that it was already abated. The Court below by impugned order dismissed the application filed by the petitioner on the ground that, when the application filed by the respondents for condoning the delay in filing the petition to bring them on record as legal representatives of the deceased plaintiff was pending, the instant application cannot be entertained.

4. It is not in dispute that the original plaintiff died on 28.09.2018. From the date of expiry of the plaintiff, it is clear the suit is already abated automatically by operation of law. Therefore, the instant application filed by the petitioner seeking dismissal of the suit on the ground that it was already abated is unnecessary. Therefore, the order passed by the Court below dismissing the present application is confirmed and consequently, the Civil Revision Petition is dismissed. However, the Court below is directed to dispose of the IA.Nos.1 & 2 of 2019 filed by the



CRP.No.1253 of 2021

respondents as expeditiously as possible. It is needless to say the petitioner is entitled to file a counter to the affidavit and memo filed by the respondents in IA.Nos.1 & 2 of 2019.

5. With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**08.02.2024**

Index : Yes / No  
Internet : Yes / No  
dna

**To**

The XVIII Additional Judge, City Civil Court, Chennai.



WEB COPY



CRP.No.1253 of 2021

**S.SOUNTHAR, J.**

dna

**CRP.No.1253 of 2021**  
**and**  
**CMP.No.9781 of 2021**

**08.02.2024**