



WEB COPY

CRP.(P.D).No.396 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 27 / 11 / 2024

ORDERS PRONOUNCED ON : 21 / 12 / 2024

CORAM

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

CRP NO.396 OF 2023

AND

CMP NO.3355 OF 2023

1.K.Satyavathi (Died)

D/o. Late V.Kannan

W/o.Late A.George

262, Mathew Street,

Kathirvedu, Chennai - 600 066.

2.Auslin,

W/o. Maridoss

D/o.Satyavathi

262, Mathew Street,

Kathirvedu,

Chennai - 600 066.

3.G.Francis

S/o.Late A.George

4.G.Premkumar,

S/o.Late A.George

5.G.PremAnand,

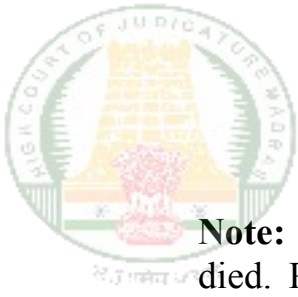
S/o.Late A.George

(Petitioners 3 to 5 are residing

at 262, Mathew Street, Kathirvedu,

Chennai - 600 066.)

... Petitioners / Plaintiffs



CRP.(P.D).No.396 of 2023

Note: Sole Petitioner viz., K.Satyavathi died. Petitioners 2 to 5 are brought on record as LRs of the deceased Sole Petitioner vide this Court's Order dated 11.11.2024 made in CMP.No.4362, 4366 and 4367 of 2024 in CRP.No.396 of 2023 by RSVJ

Vs.

K.Ramadass (deceased)

1. R.Sridhar
S/o.K.Ramadass
No.13/5, Jaganadapuram 4th Street,
Chetpet, Chennai - 600 031.
2. R.Uma,
W/o.Karuna
D/o.K.Ramadass
No.13/5, Jaganadapuram 4th Street,
Chetpet, Chennai - 600 031.
3. R.Kumar,
S/o.K.Ramadass
No.13/5, Jaganadapuram 4th Street,
Chetpet, Chennai - 600 031.
4. C.Egavalli
W/o.Chandran
D.No.7/4, Mangalapuram 8th Street,
Chetpet, Chennai - 600 031.
5. C.Saravanan
S/o.Chandran
D.No.7/4, Mangalapuram 8th Street,
Chetpet, Chennai - 600 031.



CRP.(P.D).No.396 of 2023

6. C.Narendran
S/o.Chandran
D.No.7/4, Mangalapuram 8th Street,
Chetpet, Chennai - 600 031.

7. C.Mathan
S/o.Chandran
D.No.7/4, Mangalapuram 8th Street,
Chetpet, Chennai - 600 031.

8. Lakshmi Devi
W/o.K.Ramadass
No.13/5, Jaganadapuram 4th Street,
Chetpet, Chennai - 600 031. ... Respondents / Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the Fair and Decretal Order dated December 1, 2022 passed in I.A.No.06 of 2022 in O.S.No.3981 of 2013 by the I Assistant City Civil Judge at Chennai by allowing the I.A.No.06 of 2022.

For Petitioners : Mr.Devadason

For Respondents
1 to 3 and 8 : Mr.C.T.Mohan
Senior Counsel for Mr.K.Sankaran

For Respondents : Mr.R.Ganesh Babu
4 to 7

ORDER

This Civil Revision Petition is directed against the fair and decretal Order dated December 1, 2022 passed in I.A.No.6 of 2022 in O.S.No.3981 of 2013 on the file of 'I Assistant Judge, City Civil Court, at Chennai' [henceforth 'Trial Court'].



2. The Revision Petitioners herein are the plaintiffs, and the respondents herein are the defendants in the Suit in O.S.No.3981 of 2013 before the Trial Court. Sole plaintiff viz., K.Satyavathi passed away. Hence, petitioners 2 to 5 are brought on record as legal representatives of the deceased Sole plaintiff vide this Court's Order dated November 11, 2024 made in CMP.Nos.4362, 4366 and 4367 of 2024 in CRP No.396 of 2023. For the sake of convenience, hereinafter the parties will be referred to as per their array in the Original Suit.

**3. Brief facts leading to the filing of this Civil Revision
Petition are thus:**

3.1. K.Satyavathi, the deceased sole plaintiff, filed a Suit praying to declare that she is a daughter of Late.V.Kannan and entitled to $\frac{1}{2}$ share in the Suit Property and for other reliefs.

3.2. The eighth defendant filed a written statement contesting the case. Pending the Suit, the first defendant died, leaving behind the defendants 2 to 4 as his legal heirs.



3.3. Accordingly to the sole plaintiff, the defendants 2 to 4 and the deceased - first defendant sold the Suit Property without her knowledge on the basis of an alleged Legal Heir Certificate dated December 1, 1988. She disputed the genuineness of the Legal Heirship Certificate.

3.4. Hence, the sole plaintiff sent an application under the Right to Information Act, 2005 [RTI Act] to the Public Information Officer, Egmore, Nungambakkam Taluk, Chennai, seeking information about the alleged Legal Heir Certificate dated December 1, 1988 and could not obtain a favourable reply.

3.5. Then the sole plaintiff issued notice under Order 11 Rule 16 of the Code of Civil Procedure (C.P.C) to the Counsel for the defendants 2 to 4, calling upon them to produce the alleged Legal Heir Certificate dated November 11, 1988 copy of the application submitted for issuing the alleged Legal Heir Certificate, copy of documents annexed therewith, and other particulars. The defendants 2 to 4 did not furnish the same.



3.6. Hence, the sole plaintiff filed Interlocutory Application in

I.A.No.06 of 2022 in the Original Suit before the Trial Court, to take out a *subpoena* to Tahsildar, Egmore, Nungambakkam Taluk, Chennai-31 or his authorized Officers, for producing the entire Original Records and Documents in respect of the proceedings in K.Dis.B4 18823 of 1988 dated November 11, 1988 and K.Dis B4 21322 of 1988 dated December 1, 1988, as well as for adducing evidence in respect of the documents and the queries in the RTI Letter.

3.7. The Trial Court dismissed the petition. Aggrieved by the said Order, this Civil Revision Petition has been filed.

4. The learned Counsel for the Revision Petitioners submitted that the deceased sole plaintiff and the first defendant are sister and brother, and the legal heirs of one Kannan. The first defendant with an intention to defeat and defraud her lawful right, fraudulently obtained Legal Heir Certificate as if he alone is the legal heir of late V.Kannan. The deceased sole plaintiff sent an application under RTI Act seeking certain particulars about the alleged Legal Heir Certificate issued in favour of the first defendant. The Tahsildar, Nungambakkam Taluk, sent a reply stating



that the documents relating to the Legal Heir Certificate could not be traced out.

4.1. The learned Counsel further submitted that the Legal Heir Certificate Issuance Register and other related registers are permanent in nature. The Tahsildar has wilfully and wantonly refused to divulge the information. Hence, to unearth the truth, the Tahsildar has to be examined as witness in this case. However, the Trial Court miserably failed to understand the purpose of the application. Accordingly, he prayed to allow the Revision Petition.

5. Per Contra, the learned Counsel for defendants submitted that the Tahsildar issued Legal Heir Certificate and later, the first defendant found some clerical mistake in it. Hence, the defendants submitted an application to rectify the same. Accordingly the same was rectified, and fresh Legal Heir Certificate was issued in favour of the first defendant. Further submitted that the Legal Heir Certificate was issued in the year 1988. Hence, it may not be practically possible for the authorities to locate the said file. No useful purpose would be served if the Petition is allowed. There is no warrant to interfere with the impugned Order of the Trial Court. Accordingly, he prayed to dismiss the Revision Petition.



CRP.(P.D).No.396 of 2023

6. This Court has considered both sides' submissions, and perused the records.

7. The deceased sole plaintiff filed a Suit for declaration and other reliefs. Her case is that she and the first defendant are sister and brother and the legal heirs of Late V.Kannan; that suppressing the true facts, the first defendant fraudulently and falsely obtained the Legal Heir Certificate as if he alone is the legal heir of Late Kannan with an intention to defeat and defraud the sole plaintiff's lawful right. In view of the facts and circumstances of the case, this Court, with a view to unearth the truth, the file relating to the 'Legal Heir Certificate Issue Register' has to be called for under Section 75 of the Civil Rules of Practice by allowing the petition. Further, no prejudice would be caused if the petition is allowed. However, the Trial Court without appreciating the purport and purpose of Section 75 of the Civil Rules of Practice, dismissed the Interlocutory Application. The same is not justifiable. Hence, this Court is inclined to allow the Civil Revision Petition.

8. Accordingly, this Civil Revision Petition is allowed. The Fair and Decretal Order dated December 1, 2022 passed in I.A.No.06 of



CRP.(P.D).No.396 of 2023

2022 in O.S.No.3981 of 2013 by the I Assistant City Civil Judge at Chennai is hereby set aside by allowing the I.A.No.06 of 2022. The Trial Court shall issue summons to the Tashildar, Nungambakkam Taluk, Chennai-31 and send for the documents mentioned in the petition. Considering the age of the Suit, this Court directs the Trial Court to conclude the trial as early as possible. Both parties are directed to co-operate with the Trial Court for speedy disposal of the case. The Trial Court is requested to pass judgment as early as possible preferably within a period of four months from the date of receipt of a copy of this order. In view of the facts and circumstances, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

21 / 12 / 2024

Index : Yes /No
Neutral citation : Yes /No
Speaking Order :Yes /No
VV/TK

To

The I Assistant City Civil Judge
Chennai.



WEB COPY



CRP.(P.D).No.396 of 2023

R.SAKTHIVEL, J.

VV/TK

PRE DELIVERY ORDER MADE IN
CRP NO.396 OF 2023

21 / 12 / 2024