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C.R.P.(NPD)No.1611 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.1611 of 2024

and

C.M.P.No.8603 of 2024

S.Rajendran

.. Petitioner

Vs.

K.Chenniappan (died)

1.K.Ramasamy

S.Senniapan (died)

S.Subbaian (died)

2.A.Subbathal

3.A.Vasanthamani

E.Periavalliammal (died)

4.Lakshmi

5.Marathal

P.Subbathal (died)



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6.P.Valliammal

7.R.Karuppathal

8.C.Senniappan

C.Ramasamy (died)

9.C.Aruchamy

10.M.Valliammal

11.Ponnammal

Chinnammal (died)

S.Subbaian (died)

12.S.Senniappan

E.Sennimalai Gounder (died)

13.S.Ramasamy

14.Valliammal

E.Sinnia Gounder (died)

C.Ramathal (died)

15.C.Sinnian

16.Subbathal

17.Ponnathal

18.K.Shanmugam



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19.K.Subramanian

20.B.Deivathal

21.Chinnammal

22.Saraswathi

23.Subramaniam

24.Parvathi

25.Nachimuthu

26.Amaravathi

27.Sarojini

28.Rajkumar

29.Kaliammal

30.A.E.Subramaniam

31.E.Ramasamy

32.Pavithra

33.Vinodhini

34.S.Rangammal

35.Valliammal

36.Loganathan



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37.Padmavathi

38.S.Valliammal

39.P.Subbulakshmi

40.S.Balusamy

41.R.Kalamani

42.V.Kannammal

43.V.Ponnusamy

V.Srinivasan (died)

Sinnammal (died)

A.S.R.Senniappan (died)

44.A.S.R.Ramasamy

45.S.Balamani

46.S.Padmavathi

47.S.Sivaprakash

48.K.Subbathal

S.Periammal (died)

R.Valliammal (died)

49.S.Rangasamy

50.S.Subbathal



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51.K.Saraswathi

52.S.Duraisamy

S.Ramasamy @ Ramanna Gounder (died)

53.A.C.Mahalingam

54.S.Maheswari

55.Praveen

56.Srinidhi

57.Valliammal

58.Senthilkumar

59.Vijayalakshmi

60.Tamilselvi

61.R.Sivakumar

62.Valliammal

63.Marathal

64.Senniappan

.. Respondents

Prayer : The Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 27.07.2023 passed in I.A.No.1 of 2022 in O.S.No.132 of 2017 on the file of the District Munsif, Sulur.



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For Petitioner : Mr.A.Tamilarasan

ORDER

O.S.No.132 of 2017 had been presented by the respondents herein. In the said suit, an application was taken out to bring on record the legal representatives of the deceased defendants and they were arrayed as respondent Nos.22 and 34 in the said application. That application was numbered as I.A.No.1 of 2022.

2. Several opportunities were granted to the respondents therein to file a counter but the respondents did not file a counter at all. Finally being left with no other option, the learned District Munsif at Sulur, set the respondents as *ex parte* and allowed the application on 27.07.2023.

3. The application was allowed on a condition that cost had to be deposited on or before 27.07.2023. The said cost was ordered to be paid to the District Legal Service Authority at Coimbatore.



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4. Though this order was passed on 27.07.2023, the revision itself came to be preferred before this Court only on 15.02.2024. I do not want to lay latches as the ground for rejecting this revision.

5. There is no dispute that the civil revision petitioner/S.Rajendran is the 34th respondent. He had not filed a counter despite an opportunity having been granted by the Court. The Court had waited for his counter to be filed and since he did not take a stand, the application stood allowed.

6. The learned Judge has balanced the interest of the plaintiff, who is aged about 85 years, as against the interest of the defendants and only thereafter, directed payment of cost. She has not allowed the application for the “asking”.

7. Furthermore, I have to take note of the principle that, where a delay is condoned by the learned trial Judge, this Court should seldom interfere with the same in the powers of revision. See, ***N.Balakrishnan vs. M.Krishnamurthy [(1998) 7 SCC 123]***.



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8. As the civil revision petitioner was set *ex parte* before the trial Court and had invited the order on himself, I am not inclined to interfere with the same in the revision.

9. Accordingly, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

To

The District Munsif,
Sulur



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V. LAKSHMINARAYANAN, J.

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