



C.R.P.(PD).No.1905 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1905 of 2020

M.Shanmugam

C.Mohanavel (Deceased)

... Petitioner

VS

1.P.Thangavel

2.D.Senthilkumar

3.Sri Ramakrishna Educational Trust,
Attayampatty,
Salem Taluk and District.

4.R.Annamalai

5.A.K.Renugopalan

6.R.Venkatachalam

7.R.Shanmugasundaram

8.R.Masilamani

9.M.Vijayalingam

10.S.Thangaraj



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11.P.Thirumalaisamy

12.K.Ramamoorthy

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 02.01.2020 in I.A.No.2 of 2019 in O.S.No.138 of 2019 on the file of Principal District Judge, Salem.

For Petitioner : Mr.S.Arivazhagan

For R4 to R6
and R8 : Mr.S.Kaithamalai Kumaran

For R1 and R2 : Address cannot be located

For R3, R7, R9, R10,
R11 and R12 : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition to condone the delay of 1319 days in filing petition to bring on record the legal representative of deceased 1st plaintiff.

2. It is seen from the typed-set of papers, the 1st plaintiff is a Trust called 'Sri Ramakrishna Educational Trust', Attayampatty, Salem Taluk and District. It was stated in the plaint that originally at the time of filing the suit,



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the Trust was represented by its Secretary one C.Mohanavel. Subsequently, he died on 31.12.2015. Thereafter, the son of the deceased Secretary filed a petition to bring him on record as legal representative of the deceased Secretary. In the affidavit filed in support of the petition, it was averred by the petitioner that other legal heirs of deceased 1st plaintiff selected him to succeed to the estate of the deceased Secretary.

3. Since the 1st plaintiff in the suit is a Trust, merely because of death of Secretary, there will be no abatement of the suit as against the 1st plaintiff. Therefore, the petition filed by the revision petitioner herein to set aside the abatement and to condone the delay in filing the petition to set aside the abatement are unnecessary. The impugned order is set aside and the petition filed by the petitioner to condone delay in filing the set aside abatement and the petition to set aside abatement are held to be unnecessary. The Court below is directed to consider the petition filed by the revision petitioner to record him as legal representative of deceased Secretary on merits. The said application shall be treated as a petition for substitution of new Secretary.

4. When the person representing the 1st plaintiff as a Secretary dies,



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only the succeeding Secretary is entitled to get himself substituted in the place of the deceased. The natural heirs of the deceased Secretary are not entitled to come on record. However, it is stated by the learned counsel appearing for the petitioner that as per the clause in the Trust Deed, the legal heirs of deceased Trustee/Secretary can elect any one of the heir as a person entitled to succeed to the Office. Whether the son of the deceased Secretary is entitled to come on record as a succeeding Secretary, after the death of C.Mohanavel is a question to be decided by the Court below while considering the petition to Substitute him in the place of deceased Secretary.

5. With this observation, the Civil Revision Petition is disposed of. No costs.

10.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

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The Principal District Judge,
Salem.



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S.SOUNTHAR, J.

dm

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