



C.R.P.(PD).No.2578 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.08.2024

CORAM

THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.2578 of 2024
and C.M.P.No.13485 of 2024

1.Uma
2.Minor Monika
Rep.by its guardian and natural mother- Uma
3.Minor Mathumitha
Rep.by its guardian and natural mother- Uma
... Petitioners/Petitioners/Defendants 1 to 3

-Versus-

1.Thiruvengadam
Mangammal (Deceased) ... 1st Respondent/1st Respondent/Plaintiff
2.Managing Director
Hyundai Motors India Ltd.,
Flat No.H-1, SIPCOT
Irungatukottai
Sriperumbudur
Kancheepuram District. ... 2nd Respondent/3rd Respondent/4th Defendant

3.The Tahsildar
Tindivanam
Villupuram District. ... 3rd Respondent/4th Respondent/5th Defendant

4.The District Collector
Villupuram District. ... 4th Respondents/5th Respondent/6th Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of



C.R.P.(PD).No.2578 of 2024

India, against the fair and decreetal order dated 06.03.2024 made in I.A.No.832 of 2023 in O.S.No.69 of 2020 passed by the Hon'ble Principal District Munsif at Tindivanam.

For the Petitioners : Mr.G.Krishna Kumar

For the Respondents : Mr.P.Vasanth for R1
Dr.S.Suriya, AGP for RR3 & 4
For R2 – Not ready in notice

ORDER

This Civil Revision Petition arises against the order dated 06.03.2024 passed by the learned Principal District Munsif at Tindivanam, in I.A.No.832 of 2023 in O.S.No.69 of 2020.

2. There is no dispute in the relationship between the parties. The Civil Revision Petitioners are the wife, minor daughters of one Purushothaman. The parents of the said Purushothaman are the plaintiffs. Purushothaman passed away on 13.02.2020 and the aforesaid suit was presented for declaration that the plaintiffs and the defendants 1 to 3 are the legal representatives of the deceased -Purushothaman.

3. Pending the suit, the 2nd plaintiff – Mangammal passed away. Thereafter, an application was taken by the defendants 1 to 3 seeking for



C.R.P.(PD).No.2578 of 2024

rejection of the plaint.

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4. The long and short case of the defendants is that a father cannot be declared as a class - I heir of his deceased son – Purushothaman. After receipt of a counter from the defendants, the learned Principal District Munsif, dismissed the application on 06.03.2024, against which, the present Civil Revision Petition.

5. Heard Mr.G.Krishna Kumar for the Civil Revision Petitioners and Mr.P.Vasanth for the 1st respondent.

6. Mr.G.Krishna Kumar would invite my attention to the Hindu Succession Act and would point out that a father cannot be treated as class – I heir for his deceased son. He would state that while the mother is a class – I heir, father cannot claim the said status. Therefore, he would state that there is no cause of action for the suit and the same deserves to be rejected.

7. Mr.P.Vasanth, would submit that it is not as if the father and mother have the exclusive right for themselves, but he also stated that in addition to the plaintiffs, defendants 1 to 3 are also the legal heirs of the deceased –



C.R.P.(PD).No.2578 of 2024

Purushothaman. He would state that the proceedings are now at the stage of cross examination of D.W.1 and therefore, the impugned order need not be interfered with.

8. I have carefully considered the arguments of either side.

9. The submission made by Mr.G.Krishna Kumar, that the father is not a class – I heir, does not require anything more than a reference to the schedule to the Hindu Succession Act. The father is the 1st amongst the class – II heirs and obviously he would not be in the class – I. However, in this case, the suit had been filed by two plaintiffs, the mother as well as the father. The mother is one of the class – I heirs and therefore, could have maintained the suit. On the death of the mother, the father represents the estate as the legal heir of the 2nd plaintiff-the mother. He can continue the suit for declaration that the 2nd plaintiff is entitled to be declared as the legal heir of the deceased – Purushothaman. Therefore, while agreeing with the learned Principal District Munsif, Tindivanam, that the suit should continue on his file and should not be rejected, I am not in agreement with the reasons given by the learned Judge. Cause of action being bundle of facts, and legal representatives, in terms of Section 2 (11) of CPC, being entitled to continue the proceedings on the death



C.R.P.(PD).No.2578 of 2024

of the 2nd plaintiff, this Civil Revision is dismissed. Suffice it to observe, the father cannot seek for a declaration as class – I heir. No costs. Consequently, the connected miscellaneous petition is closed.

19.08.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

Speaking / Non Speaking Order

To

The Principal District Munsif at Tindivanam.

V.LAKSHMINARAYANAN, J.,
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C.R.P.(PD).No.2578 of 2024

C.R.P.(PD).No.2578 of 2024
and C.M.P.No.13485 of 2024

19.08.2024