



CRP.No.4943 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.4943 of 2024

S.Ramesh

.. Petitioner

Versus

M.Elangovan

.. Respondent

Prayer:- Civil Revision Petition filed under Section 151 of Code of Civil Procedure, to set aside docket order dated 25.10.2024 in un-numbered I.A.SR.No.60390 of 2024 in O.S.No.7057 of 2015 passed by the learned II Assistant, Judge, City Civil Court, Chennai and consequently direct the learned II Assistant, Judge, City Civil Court, Chennai to number the I.A.

For Petitioner : Mr.S.Annakodi

ORDER

Challenge has been made to the order of the Court below returning the application filed to amend the cause title in the decree.



CRP.No.4943 of 2024

WEB COPY

2. The suit has been originally filed by the plaintiff as against the Saraswathi Ammal and others. The suit has been decreed on 21.08.2023, wherein, as against the said Saraswathi Ammal, suit has been dismissed as abated. In the cause-title of the judgment, the first defendant is shown as deceased. However, in the decree, status of the first defendant is not shown as deceased. Therefore, the petitioner took up the application to amend the cause title. That application has been returned on the ground that the plaintiff has not amended the same in the plaint. Hence, this revision.

3. Heard the learned counsel for the petitioner and perused the materials placed on record.

4. This Court is of the view that the Trial Court ought to have numbered the application first, then decided the issue on merits. It is relevant to note that the decree should be in conformity with the judgment. When the first defendant in the judgment is shown as the deceased, the same should have been shown in the decree, however, it is not done so. The Trial Court ought to have decided whether the suit have been filed against a dead person or the person had died during the pendency of suit,



CRP.No.4943 of 2024

WEB COPY

without deciding, just returning the application clearly indicate that the Trial Court has shirked its responsibility.

5. Such view of the matter, the order of returning the application stands quashed. The Trial Court is directed to number the application and decide the issue on merits.

6. Accordingly, this revision petition stands allowed. No costs.

05.12.2024

dhk

Index : Yes/No

Internet : Yes/No

To,

II Assistant Judge,
City Civil Court, Chennai



WEB COPY



CRP.No.4943 of 2024

N.SATHISH KUMAR, J.,

dhk

C.R.P.No.4943 of 2024

05.12.2024