



CRP(PD)(MD).No.204 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.11.2024

CORAM

THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.204 of 2022 and
CMP(MD).No.904 of 2022

1. Mariammal
2. Kulanthaivel Nachiyar : Revision Petitioners

Vs.

Poolidhurai(died)
1.Poolikannu Thalaivannar
2.Sedhu Thalaivannar
3.Aathiveerarama Pandian
4.Thangadurai
5.Selvaraj
6.Velladurai

7.Revenue Thasildar,
Shengottai Taluk,
Thenkasi District. : Respondents / plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 25.11.2021 passed in I.A.No.2 of 2021 in O.S.No.49 of 2009 on the file of the District Munsif Cum Judicial Magistrate Court, Shengottai.

For Petitioners :Mr.F.X. Eugene

For respondent Nos.1 to 4 :Mr.N. Sankar Ganesh

For respondent No.7 : Mr. B. Saravanan

Additional Government Pleader



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ORDER

This Civil Revision Petition is filed against the fair and decreetal order, dated 25.11.2021 made in I.A.No.2 of 2021 in O.S.No.49 of 2009 on the file of the District Munsif Cum Judicial Magistrate Court, Shengottai.

2. According to the revision petitioners, the respondents 1 to 4 as plaintiffs have filed a suit in O.S.No.49 of 2009 on the file of the District Munsif Cum Judicial Magistrate Court, Shengottai for declaration and consequential injunction and also for correcting the revenue records. During the pendency of the said suit, the unmarried third defendant viz., Poolidhurai, died on 13.07.2010. The mother of the third defendant also pre-deceased him. The revision petitioners herein are the Class II Legal heirs of the deceased 3rd defendant. They are already on record as the defendants 1, 2, 4 and 5. In such circumstances, the respondents 1 to 4 / plaintiffs have filed an application in I.A.No.2 of 2021 to record the death of the 3rd defendant in the plaint as he has no other legal heirs. The trial Court without recording the revision petitioners herein as legal heirs of the deceased third defendant simply allowed the said application for



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amendment. Challenging the same, the revision petitioners have filed the present Civil Revision Petition.

3. The learned counsel appearing for the revision petitioners would submit that the revision petitioners ought to have been added in the suit as legal heirs of the deceased 3rd defendant as provided under Order 22 Rule 4 CPC and also as per Sections 8 and 9 of Hindu Succession Act, 1956.

4. The learned counsel appearing for the respondents 1 to 4 herein / plaintiffs have no serious objection to allow this petition for recording the the defendants 1, 2, 4 and 5 as the legal heirs of the deceased third defendant in the plaint.

5. Heard both sides and perused the materials available on record.

6. It is not in dispute that the 3rd defendant died un-married and his mother pre-deceased him. It is also not in dispute that the revision petitioners are the class II heirs of the deceased 3rd defendant and they are



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already on record. While so, the trial Court ought to have recorded the revision petitioners as legal heirs of the deceased 3rd defendant. But, it has simply recorded the death of the 3rd defendant which is incorrect. Therefore, Considering the facts and circumstances of the case and also considering the fact that the learned counsel appearing for the respondents 1 to 4 / plaintiffs have no serious objection to allow this revision, the order, dated 25.11.2021 made in I.A.No.2 of 2021 in O.S.No.49 of 2009 on the file of the learned District Munsif - Cum - Judicial Magistrate Court, Shengottai is hereby set aside.

7. Accordingly, this Civil Revision Petition is allowed. There shall be a direction to the trial Court to record the defendants 1, 2, 4 and 5 as the legal heirs of the third defendant in pursuance to the amendment carried which thereon. No costs. Consequently, the connected Miscellaneous Petition is closed.

12.11.2024

Index : Yes / No
Internet : Yes/ No
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The District Munsif Cum Judicial
Magistrate Court, Shengottai.



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K. GOVINDARAJAN THILAKAVADI, J.,

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