



CRP.(MD)No.1143 of 2021

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

CRP.(MD)No.1143 of 2021

and

CMP(MD)No.6674 of 2021

Chelladurai

.. Petitioner

Vs.

1.Premkumar

2.Smitha

3.Valliammal

4.Franciska Indra

5.Alto Bebin

6.Subakar

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India challenging the order passed in I.A.No.1 of 2020 in A.S.No.30 of 2014 dated 06.07.2021 on the file of the Sub Jude, Tenkasi.



CRP.(MD)No.1143 of 2021

WEB COPY

For Petitioner : Mr.T.Selvan
for Mr.S.B.Kamalanathan

For Respondents : Mr.Ramesh @ Ramiah
for R1 to R3

: R4- Deceased

: R5- Unclaimed

: No appearance for R6

ORDER

This Civil Revision Petition is directed against the order dated 06.07.2021 in I.A.No.1 of 2020 in A.S.No.30 of 2014 passed by the learned Additional Sub Judge, Tenkasi, dismissing the application filed under Order 41 Rule 27 Cr.P.C, to receive additional evidence in the A.S.No.30 of 2014.



CRP.(MD)No.1143 of 2021

WEB COPY

2. The learned counsel for the petitioner submitted that in terms of the mandate provided under Rule 27 of Order 41 Cr.P.C., any application filed under such provision is required to be considered along with the main appeal. But in the instant case, the learned Additional Sub Judge has decided the said application independently instead of considering the same along with the main appeal. Hence, the order under revision is not sustainable and he prays for setting aside of the said order.

3. Considering the submission made by the learned counsel for the petitioner, this Court is of the considered view that the order under revision is liable to be set aside only on the ground that the lower Appellate Court decided the matter independently instead of considering the same in terms of Order 41 Rule 27 Cr.P.C., along with the main appeal.

4. Accordingly, the order under revision in I.A.No.1 of 2020 in A.S.No.30 of 2014 dated 06.07.2021, is set aside and the matter is remanded back to the lower Appellate Court/the learned Additional Sub Judge, Tenkasi,



CRP.(MD)No.1143 of 2021

WEB COPY

to decide the said application on its own merits along with A.S.No.30 of 2020. It is made clear that this Court has not dealt with the matter on merits and it is open for the lower appellate Court to decide the matter on merits afresh.

5. Accordingly, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

20.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
PJJ

To
The Additional Sub Judge, Tenkasi.



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CRP.(MD)No.1143 of 2021



WEB COPY



CRP.(MD)No.1143 of 2021

MUMMINENI SUDHEER KUMAR, J.

PJL

CRP.(MD)No.1143 of 2021
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