



C.R.P.(NPD)(MD)No.271 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.03.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(NPD)(MD)No.271 of 2020

Palani, Ayakudi, Obulapuram,
Viswakarma Thatchu, Kollu Velai
Tholizhalargal, Kattida Thozhilalar,
Samoogathinar Munnetra Sangam,
Registration No.15/1979,
Rep. By its Secretary, Karuppusamy.

... Petitioner

Vs.

1.Marimuthu
2.Abbas Manthiri

... Respondents

PRAYER: Petition filed under Section 115 of C.P.C. to set aside the fair and decreetal order made in I.A.No.338 of 2018 in O.S.No.144 of 2007 by the District Munsif Court, Palani, Dated 05.07.2019.



C.R.P.(NPD)(MD)No.271 of 2020

For Petitioner : Mr.D.Venkatesh
For Respondents : Mr.G.Mohan Kumar for R1
No Appearance for R2

ORDER

This matter earlier came up for consideration before this Court on 27.02.2024 and this Court passed the following docket order:

“In spite of granting sufficient time, appropriate application is not filed to bring on record the legal heirs of the deceased first respondent.

Hence, finally post on 11.03.2024. If no steps are taken by the date, the Civil Revision petition shall stand dismissed automatically as against the first respondent”

2. From the above, it is evident that the death of the first respondent was brought to the notice of this Court as well as upon the learned counsel for the petitioner as early as on 13.02.2024. However, no steps have been taken as on date. Hence, this Court passed a conditional order dated 27.02.2024. In spite of the same, the petitioner has not chosen to take any



steps to bring on record the legal representatives of the deceased first respondent. Hence, by operation of the order dated 27.02.2024, this Civil Revision Petition stood dismissed as against the respondent No.1.

3. From the averments made in the plaint, it appears that the cause of action against the defendants 1 and 2 /respondents 1 and 2 is one and the same and therefore, this Civil Revision petition is liable to be dismissed as against respondent No.2 as well.

4. Further, from the order under revision, it is noticed that the said application in I.A.No.338 of 2018 was filed seeking condonation of delay in filing an application under Order 9 rule 9 of C.P.C. The learned trial Court, while considering the application filed under Section 5 of the Limitation Act to condone the delay of 268 days, having taken note of the fact that the Society which is being represented by the petitioner/plaintiff has become defunct, by virtue of the order passed by the District Registrar of Co-operative Societies, dated 25.07.2007, refused to condone the delay, as the main suit itself does not survive.



C.R.P.(NPD)(MD)No.271 of 2020

5. In the light of the above, this Court also does not see any merit in the Civil Revision Petition and also due to the failure on the part of the petitioner to bring on record the legal representatives of the deceased respondent No.1, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

25.03.2024

NCC : Yes/No

Index : Yes/No

vsm



C.R.P.(NPD)(MD)No.271 of 2020

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To

- 1.The District Munsif Court, Palani.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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C.R.P.(NPD)(MD)No.271 of 2020

MUMMINENI SUDHEER KUMAR, J.

vsm

C.R.P.(NPD)(MD)No.271 of 2020

25.03.2024