



CMP(MD). No.11131 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Friday, the Thirtieth day of August Two Thousand
and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CMP(MD). No.11131 of 2024
in
CRP(MD) No.646 of 2022

Jamia Mosque Executive Committee,
through its Present Administrative Officer,
No. 30-31 W.G.C. Road
Thoothukudi District. ... Petitioner/Respondent

Vs

1 S. Mahilaparanam,
2 S.Ramalingam (Died)
3 Nithyakalyani
4 Ramalakshmi
5 Priyadharshini ... Respondent/Petitioners

Prayer :-

To modify the order dated 25.03.2022 in CRP(MD)No.646 of 2022 and render justice.

ORDER:- This Civil Miscellenous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon



CMP(MD). No.11131 of 2024

hearing the arguments of Thiru.M.P.Senthil, Advocate for the Petitioner, this Court made the following order:

“When the matter was taken up for hearing, the learned counsel appearing for the respondents submitted that he has returned the papers. The petitioner herein filed O.S.No.163 of 1996 on the file of the Sub Court, Thoothukudi for recovery of possession. The suit was decreed. Questioning the same, the defendants filed A.S.No.1 of 2024 on the file of the Principal District Judge, Thoothukudi. During the pendency of the appeal, it appears that the second appellant (S.Ramalingam) passed away on 30.07.2006. The appeal itself was dismissed for default on 05.10.2016. To restore the same, I.A.No.43 of 2019 was filed. Since the second appellant had passed away, I.A.No.1 of 2020 was filed to condone the delay of 4783 days in filing the LR petition. It was dismissed on 06.01.2022. Questioning the same, C.R.P.(MD)No.646 of 2022 was filed. The CRP was dismissed on 25.03.2022. However, while so dismissing, it was observed that the revision petitioners are at liberty to conduct the appeal with the available appellants. Seeking clarification of the said observation, the civil miscellaneous petition has been filed.

2. It is obvious that there were two appellants. The second appellant had passed away. The revision petitioners 3 to 5 are the LRs of the second appellant.



CMP(MD). No.11131 of 2024

WEB COPY

The civil revision petitioners 2 to 5 had lost the right to prosecute the appeal. As far as the first revision petitioner Mahilaparanam is concerned, he can only pursue the application for restoration of the appeal. The appeal itself is yet to be restored. Therefore, it could not have been observed that the revision petitioners are at liberty to pursue the appeal. The order dated 25.03.2022 made in C.R.P.(MD)No.646 of 2022 is accordingly modified. C.M.P.(MD)No.11131 of 2024 is accordingly allowed."

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/09/2024

Sub Assistant Registrar
(CS-I / II / III / IV)

TO

1) The Principal District Judge,
Thoothukudi.

2. The Subordinate Judge,
Tuticorin.

+1 cc to M/s.M.P.Senthil, Advocate SR.47828, dt.02.09.2024.



WEB COPY



CMP(MD). No.11131 of 2024

ORDER DATED : 30/08/2024

=====

ORDER

=====

CMP(MD). No.11131 of 2024

in

CRP(MD) No.646 of 2022

SI -(18.09.2024) 4P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.