



C.R.P.(MD).Nos.2114 to 2116 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD).Nos.2114 to 2116 of 2015

and

M.P.(MD).Nos.1, 1 and 1 of 2015

C.R.P.(MD).No.2114 of 2015

1.Rakkammal (Died)

2.A.Annadurai

.. Petitioners/Petitioners/Petitioners

(Memo dated 13.03.2023 presented before the Court on 24.03.2023 is recorded, as 1st petitioner died and 2nd petitioner and the respondents 2 to 4, who are already on record, are recorded as LR's of the deceased 1st petitioner vide Court order dated 24.03.2023 made in C.M.P.(MD).Nos.3452 to 3454 of 2018 in C.R.P.(MD).Nos.2114 to 2116 of 2015 and C.M.P.(MD).Nos.11763, 11765 and 11768 of 2019 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

Vs.

1.G.Kalyanaramier (Died)

.. Respondent/Respondent/Petitioner

2.Parimala

3.A.Muthiah



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4.Rajathi

.. Respondents/Petitioners/Petitioners

5.G.Gowri Sankar

6.G.Thirumoorthi (Died)

(R-5 and R-6 are impleaded vide Court order dated 24.03.2023 made in C.M.P.(MD).Nos.3452 to 3454 of 2018 in C.R.P.(MD).Nos.2114 to 2116 of 2015 and C.M.P.(MD).Nos.11763, 11765 and 11768 of 2019 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

7.T.Kamala

.. Respondents

(R-7 is brought on record as LR of the deceased 6th respondent vide Court order dated 25.08.2023 made in C.M.P.(MD).Nos.10670 to 10672 of 2023 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

PRAYER: Civil Revision Petition filed under Section 6B of Tamil Nadu Cultivating Tenants Protection Act, 1955 r/w Section 115 of Civil Procedure Code, to set aside the order of the learned Special Deputy Collector (Revenue Court), Madurai passed in I.A.120 of 2014 in I.A.213 of 2007 in T.C.T.P.No.2 of 1998 dated 12.12.2014 and allow this revision.

C.R.P.(MD).No.2115 of 2015

1.Rakkammal (Died)

2.A.Annadurai

.. Petitioners/Petitioners/Petitioners

(Memo dated 13.03.2023 presented before the Court on 24.03.2023 is recorded, as 1st petitioner



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died and 2nd petitioner and the respondents 2 to 4, who are already on record, are recorded as LR's of the deceased 1st petitioner vide Court order dated 24.03.2023 made in C.M.P.(MD).Nos.3452 to 3454 of 2018 in C.R.P.(MD).Nos.2114 to 2116 of 2015 and C.M.P.(MD).Nos.11763, 11765 and 11768 of 2019 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

Vs.

1.G.Kalyanaramier (Died) .. Respondent/Respondent/Petitioner

2.Parimala

3.A.Muthiah

4.Rajathi .. Respondents/Petitioners/Petitioners

5.G.Gowri Sankar

6.G.Thirumoorthi (Died)

(R-5 and R-6 are impleaded vide Court order dated 24.03.2023 made in C.M.P.(MD).Nos.3452 to 3454 of 2018 in C.R.P.(MD).Nos.2114 to 2116 of 2015 and C.M.P.(MD).Nos.11763, 11765 and 11768 of 2019 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

7.T.Kamala .. Respondents

(R-7 is brought on record as LR of the deceased 6th respondent vide Court order dated 25.08.2023 made in C.M.P.(MD).Nos.10670 to 10672 of 2023 in C.R.P.(MD).Nos.2114 to 2116 of 2015)



C.R.P.(MD).Nos.2114 to 2116 of 2015

PRAYER: Civil Revision Petition filed under Section 6B of Tamil Nadu Cultivating Tenants Protection Act, 1955 r/w Section 115 of Civil Procedure Code, to set aside the order of the learned Special Deputy Collector (Revenue Court), Madurai passed in I.A.121 of 2014 in I.A.214 of 2007 in T.C.T.P.No.2 of 1998 dated 12.12.2014 and allow this revision.

C.R.P.(MD).No.2116 of 2015

1.Rakkammal (Died)

2.A.Annadurai .. Petitioners/Petitioners/Petitioners

(Memo dated 13.03.2023 presented before the Court on 24.03.2023 is recorded, as 1st petitioner died and 2nd petitioner and the respondents 2 to 4, who are already on record, are recorded as LR's of the deceased 1st petitioner vide Court order dated 24.03.2023 made in C.M.P.(MD).Nos.3452 to 3454 of 2018 in C.R.P.(MD).Nos.2114 to 2116 of 2015 and C.M.P.(MD).Nos.11763, 11765 and 11768 of 2019 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

Vs.

1.G.Kalyanaramier (Died) .. Respondent/Respondent/Petitioner

2.Parimala

3.A.Muthiah

4.Rajathi .. Respondents/Petitioners/Petitioners

5.G.Gowri Sankar



C.R.P.(MD).Nos.2114 to 2116 of 2015

6.G.Thirumoorthi (Died)

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(R-5 and R-6 are impleaded vide Court order dated 24.03.2023 made in C.M.P.(MD).Nos.3452 to 3454 of 2018 in C.R.P.(MD).Nos.2114 to 2116 of 2015 and C.M.P.(MD).Nos.11763, 11765 and 11768 of 2019 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

7.T.Kamala

.. 7th Respondent

(R-7 is brought on record as LR of the deceased 6th respondent vide Court order dated 25.08.2023 made in C.M.P.(MD).Nos.10670 to 10672 of 2023 in C.R.P.(MD).Nos.2114 to 2116 of 2015)

PRAYER: Civil Revision Petition filed under Section 6B of Tamil Nadu Cultivating Tenants Protection Act, 1955 r/w Section 115 of Civil Procedure Code, to set aside the order of the learned Special Deputy Collector (Revenue Court), Madurai passed in I.A.122 of 2014 in I.A.215 of 2007 in T.C.T.P.No.2 of 1998 dated 12.12.2014 and allow this revision.

For Petitioners : Mr.S.Manohar

For Respondents : Mr.H.Arumugam for R-5 to R-7
R-1 – died
No appearance for R-2 to R-4
(In all petitions)



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COMMON ORDER

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All the three Civil Revision Petitions arise out of the dismissal orders passed in the applications filed under Order 22 Rule 4 of CPC, so as to implead the second petitioner herein in the applications filed to condone delay, to set aside the *ex parte* order and for stay of Execution Petition.

2. It is the submission of the learned counsel for the petitioners that there is no application of mind by the authority below and that too, without impleading the legal heirs, there cannot be any order against the dead person. Hence, the learned counsel would submit that the dismissal of the applications by the authority below is perverse and liable to be interfered with.

3. However, the learned counsel for the respondents 5 to 7, with great effort, has circulated dates and events with all the minute particulars about the way in which the pathetic landlord/first respondent has been fighting against the tenant to get the eviction of the tenant.



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4. For ready reference, the dates and events are extracted hereunder:

S.No.	Date	Events
1.	12.01.1998	TCTP No.2/1998 filed for eviction on the ground of default for Fasli 1403 to 1406
2.	04.06.2001	TCTP No.2/1998 allowed
3.	---	I.A.No.81/2001 filed to set aside the ex-parte order in TCTP No.2/1998 – [Dismissed for default]
4.	---	I.A.No.336/2002 filed to restore the I.A.No. 81/2001 – [Dismissed for default]
5.	29.04.2004	E.P.No.38/2004 filed by the 1 st respondent
6.	---	Tenant appeared and not filed counter
7.	05.09.2004	I.A.No.167/2004 filed to restore the I.A.No. 336/2002 – [Dismissed for default]
8.	05.09.2005	E.P.No.38/2004 allowed
9.	14.06.2007	I.A.No.213/2007 – to set aside the ex-parte order passed in E.P.No.38/2004
10.	14.06.2007	I.A.No.214/2007 – condone the delay of 580 days in filing petition to restore the I.A.No.167/2004
11.	14.06.2007	I.A.No.215/2007 – to stay the order passed in E.P.No.38/2004
12.	18.06.2007	Stay granted
13.	---	Plaint in O.S.No.103/2009, on the file of the District Munsif Court, Vadipatti for recovery of money [arrears] of Rs.32,370/- for the Fasli 1415 to 1416
14.	12.09.2013	Tenant died (Appasamy)
15.	08.12.2013	I.A.No.120/2014 filed by the petitioner to implead him as a party in I.A.No.213/2007



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16.	08.12.2013	I.A.No.121/2014 filed by the petitioner for amendment in I.A.No.214/2007
17.	08.12.2013	I.A.No.122/2014 filed by the petitioner to implead him as a party in I.A.No.215/2007
18.	04.01.2014	Counter filed
19.	12.12.2014	I.A.Nos.120 to 122/2014 dismissed
20.	10.03.2015	Kalyanaramier [R-1] died
21.	07.09.2015	CRP filed

5. From the dates and events, it is clear that the landlord has been fighting to execute the eviction order dated 04.06.2001 for more than two decades. But the fact remains that when the tenant, Appasamy died, it is a natural consequence to implead all the legal heirs. However, in the present case, strangely, the second petitioner, without even impleading all the legal heirs, has filed applications to implead himself as the sole legal representative of the deceased Appasamy, when there are other legal heirs existing. Therefore, on the face of it, the dismissal of the applications by the authority below cannot be found faulted with, albeit the reasoning for allowing the application is not a proper one. Therefore, this Court is of the firm view that the orders passed by the authority below are liable to be confirmed.



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6. However, liberty is given to the petitioners to move a fresh application to implead all the legal heirs including the revision petitioners in all the applications. The petitioners are directed to move such an application within a period of four (4) weeks from the date of receipt of a copy of this order. It is made clear that such application will be numbered on payment of Rs.1,00,000/- (Rupees One Lakh only) within a period of four (4) weeks from the date of receipt of a copy of this order and another sum of Rs.1,00,000/- (Rupees One Lakh only) within a period of six (6) weeks thereafter. If such condition has not been complied within the above period, the authority below can proceed according to law. In the event of complying the condition, the authority below is directed to dispose of the application within a period of four (4) weeks thereafter.

7. With the above observations, the Civil Revision Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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1. The Special Deputy Collector (Revenue Court),
Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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