



C.R.P(MD)No.2316 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.2316 of 2019
and
C.M.P(MD)No.12175 of 2019

Ramiah Konar (died)

1.Muthulakshmi
2.Esakki
3.Santhanam
4.Subramani

... Petitioners/Petitioners/Proposed Plaintiffs
vs.

1.Sulaiman
2.Seyyed Sirajdeen
3.Shiek Sinthamadhara ... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.04.2019 made in I.A.No.442 of 2018 in O.S.No.105 of 2012 on the file of the District Munsif cum Judicial Magistrate, Cheranmahadevi.

For Petitioners : Mr.J.Parekkumar
For R-1 : Mr.R.J.Karthick
For R-2 & R-3 : No Appearance



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ORDER

The instant Civil Revision Petition has been filed by the legal heirs of the sole plaintiff, challenging the fair and decreetal order, dated 12.04.2019 made in I.A.No.442 of 2018 in O.S.No.105 of 2012 on the file of the District Munsif cum Judicial Magistrate, Cheranmahadevi.

2. The brief facts of the case are as follows:

The original plaintiff has filed the suit for declaration, permanent injunction and for mandatory injunction. It appears that during the pendency of the suit, the sole plaintiff died. Hence, the legal representatives have filed the impleading application to implead the legal representatives of the sole plaintiff. While filing such application, there was a delay of 1270 days. However, the Court below has dismissed the condone delay application on the ground that such application was filed only to delay the proceedings.

3. The learned counsel appearing on behalf of the petitioners would submit that when the sole plaintiff died on 23.11.2014, the civil revision petition was pending before this Court in C.R.P(MD)No.1274 of 2014 and therefore, the learned counsel who was appearing before the trial Court has not filed the application within the prescribed period.



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4. As rightly contended by the learned counsel appearing for the petitioners, the civil revision petition in C.R.P(MD)No.1274 of 2014, was pending at the time of date of death of the sole plaintiff. However, the trial Judge has simply dismissed the application as if the petitioner has filed the application only to delay the suit proceedings.

5. This Court is of the view that such reasoning would only show the non-application of mind, and that without impleading the legal heirs of the plaintiff, the suit cannot be proceeded. Therefore, this Court is of view that the order of the trial Court is liable to be interfered with.

6. In the result, this Civil Revision Petition is allowed and thereby I.A.No.442 of 2018 in O.S.No.105 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, is allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2024

Index:Yes/No
NCC:Yes/No
PM



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To

1. The District Munsif cum Judicial Magistrate,
Cheranmahadevi.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN, J.

PM

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