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C.R.P.(PD).No. 1035 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 1035 of 2025

&

C.M.P.No. 5991 of 2025

Siluvai Lini @ Lini

...Petitioner

Vs.

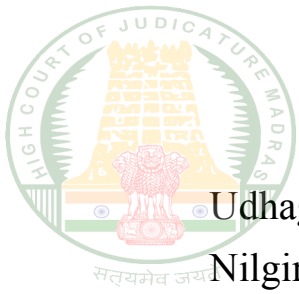
1.S.Suhasini

2.The State of Tamil Nadu

Rep by the Collector of Nilgiris,
Nilgiris – 643 001.

3.The Tahsildar,
Udhagamangalam,
Nilgiris – 643001.

4.The Chief Educational Officer,
The Chief Educational Office,



C.R.P.(PD).No. 1035 of 2022

Udhagamangalam,
Nilgiris – 643001.

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5.The District Educational Officer,
The District Educational Office,
Coonoor, Nilgiris – 643 101.

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order in OS.No.122 of 2021 by the learned District Munsif, Udhagamandalam in memo dated 05.12.2024 filed by the 1st defendant seeking to frame additional issues.

For Petitioner : Mr. D.Parventhan

ORDER

Challenging the part rejection of her memo for framing additional issues the 1st defendant is the petitioner before this Court. The facts are briefly set out herein below. The parties are referred to in the same array as before the District Munsif, Udhagamandalam.



C.R.P.(PD).No. 1035 of 2022

WEB COPY

2. The plaintiff / 1st respondent had filed OS.No.122 of 2021 on the file of the District Munsif, Udthagamandalam, seeking the relief of setting aside the Judgement and Decree in OS.No.33 of 2014 dated 03.03.2015 and to declare the plaintiff and the 1st defendant as legal heirs of the deceased S.Papu Arokiya Roasalin @ Rosalin and for a mandatory injunction directing the 3rd defendant to issue a legal heir certificate declaring that the plaintiff and the 1st defendant are legal heirs of the said S.Papu Arokiya Roasalin @ Rosalin.

3. The plaintiff's contention is that she was born to S.Papu Arokiya Roasalin @ Rosalin and the 1st defendant is her sister. It is the further case that her mother S.Papu Arokiya Roasalin @ Rosalin had obtained divorce from Sundardass by a decree of Divorce dated 10.03.1988 in OP.No.12 of 1987 on the file of the District Court, Udthagamandalam. She passed away on 13.01.2000.



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4. During her life time S.Papu Arokiya Roasalin @ Rosalin was working as a Lab Assistant in Government School, Arakuchi, Melur Hosatti, Nilgiris and she had died in harness. After her mother's death the plaintiff, the 1st defendant and Sundardass had applied for a grant of succession certificate in respect of the terminal benefits payable to S.Papu Arokiya Roasalin @ Rosalin in OP.No.17 of 2002 on the file of the Sub Court, Nilgiris.

5. At the time of making this application the plaintiff and the 1st defendant were minors and their father was appointed as a Guardian in OP.No.20 of 2000 on the file of the District Court, Nilgiris, by order dated 31.05.2001. Thereafter, the learned Judge had granted succession certificate in OP.No.17 of 2002 empowering guardian of the plaintiff and the 1st defendant, namely, Sundardass to collect debts and securities.



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6. The plaintiff would submit that the amounts collected were invested by their father with the State Bank of India, Udhagamandalam Branch and after the 1st defendant attained majority their father Sundardass disbursed the amount to the plaintiff and the 1st defendant. The 1st defendant was paid a sum of Rs.65,000/- by virtue of two bankers cheque both dated 15.05.2004. The 1st defendant had also executed a receipt for the same.

7. After the death of their mother the plaintiff and the 1st defendant had approached the defendants 2 and 3 for issue of legal heir certificate in order to enable the 1st defendant to get compassionate appointment. The plaintiff would submit that since the 1st defendant was moving the authorities she had not suspected any motive.

8. Meanwhile the plaintiff's marriage with one Francis Jerry was dissolved by Judgement of divorce dated 10.01.2015 in FCDOP.No.49 of 2014 on the file of the Family Court, Udhagamandalam. After her



divorce the plaintiff had become a destitute with no help and she had approached the 1st defendant to get compassionate appointment.

9. The plaintiff would submit that the 1st defendant was putting it off under one pretext or the other. She had suppressed the fact that she had been appointed under the compassionate category and she had obtained this on the basis of her fraudulent legal heir ship certificate. She had also received the family benefit fund family pension, etc., in all Rs.1,82,880/- as if she was the only legal heir of S.Papu Arokiya Roasalin @ Rosalin.

10. This order runs contrary to the order obtained by their father in OP.No.17 of 2002, Sub Court, Udhagamandalam. In fact she had informed the plaintiff that she had obtained employment in the Education Department by attending the interview and clearing written exams. Thereafter, taking into consideration the evasive reply the plaintiff made enquiries and it was then that she came to learn about the subterfuge that the 1st defendant had adopted for obtaining succession



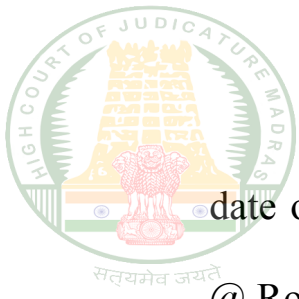
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certificate, the employment and a decree that the 1st defendant had obtained against defendants 2 and 3 in OP.No.33 of 2014 on the file of the District Munsif, Udhagamandalam to declare her as sole legal heir of S.Papu Arokiya Roasalin @ Rosalin.

11. The plaintiff had also filed writ petition before this Court and this Court dismissed the petition giving her liberty to work out remedy to set aside decree obtained by the 1st defendant in OS.No.33 of 2014. Therefore, the plaintiff has come forward with the above suit.

12. The 3rd defendant filed a written statement denying the allegations. The 3rd defendant would submit that in the very employment letter granted to the 1st defendant on 15.10.2018 it has been clearly stated that the work has been assigned purely on temporary basis.

13. The 1st defendant filed a written statement denying the allegations contained in the plaint. It is her categorical case that on the



date of the divorce between Sundardass and S.Papu Arokiya Roasalin

@ Rosalin on 10.03.1988, the 1st defendant was only 2 years old having born on 29.04.1986. The 1st defendant was in care and custody of S.Papu Arokiya Roasalin @ Rosalin and did not know the face of her father.

14. The 1st defendant would submit that she is absolutely not in the knowledge of the succession certificate obtained by her father Sundardass. She had also contended that the plaintiff was in illicit relationship with the 1st defendant's husband and since she had led wayward life the 1st defendant's husband left her and joined one Sophia and the plaintiff has been requesting the 1st defendant to reunite her with the said William John, the husband of the 1st defendant which the 1st defendant refused and the suit is only a counter blast to the same.

15. The plaintiff was examined in chief and cross. After the evidence of PW1 the 1st defendant has come forward with the memo to include the following issues:



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C.R.P.(PD).No. 1035 of 2022

“1. Whether an illicit relationship have been existed between the plaintiff and the husband of the 1st defendant, if so since which period it has been existed.

2. Whether the plaintiff instituted the suit to take vengeance against the 1st defendant?

3. Whether this suit is barred by limitation?

16. This memo has been rejected by the Court below holding that the same is not germane to the issue on hand as it is not necessary to decide the issue on hand.

17. Challenging the same the 1st defendant is the petitioner before this court.

18. Heard the learned counsel for the petitioner.

19. The suit in question is one filed to declare the decree passed in OS.No.33 of 2014 as null, to declare the plaintiff and the 1st



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defendant as legal heirs of the deceased S.Papu Arokiya Roasalin @ Rosalin and for a mandatory injunction to include their names in legal heir certificate.

20. The case of the plaintiff is that she is the elder daughter of the said S.Papu Arokiya Roasalin @ Rosalin and Sundardass. The 1st defendant is the second daughter. The plaintiff has referred to two proceedings post the death of S.Papu Arokiya Roasalin @ Rosalin where under an OP was filed for appointing Sundardass as guardian of the plaintiff and the 1st defendant both being minors and a petition for receiving the terminal benefits of the deceased S.Papu Arokiya Roasalin @ Rosalin. Both of which had been moved by the said Sundardass. In these petitions the plaintiff and the 1st defendant are shown as children of Sundardass and S.Papu Arokiya Rosalin @ Rosalin.

21. The plaintiff has also alleged that the money which have been received has been deposited to the share of the 1st defendant as well. In



C.R.P.(PD).No. 1035 of 2025

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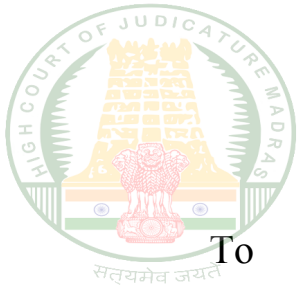
her written statement the 1st defendant would deny that the plaintiff was born to S.Papu Arokiya Roasalin @ Rosalin and Sundardass. She would also submit that the plaintiff was in a relationship with her husband. As to how the relationship or otherwise of the plaintiff with the 1st defendant's husband is necessary to decide the issue on hand has not been explained. That apart, during the cross examination of PW1 no questions in this regard had been asked of her.

22. In these circumstances, the part rejection of the memo appears to be justified. The learned Trial Judge has out of 3 additional issues raised has incorporated the third issue, *whether the suit is barred by limitation*. I see no reason to interfere with the same. The petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

13.03.2025

Index : Yes/No
Internet : Yes/No

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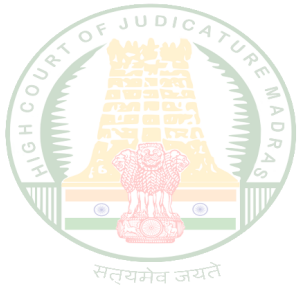


C.R.P.(PD).No. 1035 of 2023

To

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The District Munsif,
Udhagamandalam.



WEB COPY



C.R.P.(PD).No. 1035 of 2025

P.T. ASHA, J,

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C.R.P.(PD).No. 1035 of 2025

13.03.2025