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C.R.P. No.238



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2025

CORAM

THE HON'BLE DR. JUSTICE P.B. BALAJI

C.R.P. No.2381 of 2025

G. Sakunthala (Deceased)

... Petitioner/ Plaintiff

1. G. Anusuya Devi

2. J. Sarala

... Revision Petitioners/ Proposed Legal
Heirs of the Plaintiff

-VS-

S. Suguna

... Respondent/ Respondent/ Defendant

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and Decretal Order dated 10.03.2025 passed in I.A.No.7 of 2025 in O.S.No.564 of 2015 by the learned II Assistant City Civil Court at Chennai and to allow the I.A.No.7 of 2025 in O.S.No.564 of 2015.

For Petitioner : Mr. N. Nagu Sah

For Respondent : Mr. M. Kamalakannan



ORDER

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This civil revision petition is filed challenging the dismissal of interlocutory application No.7 of 2025 taken out by the proposed plaintiffs, who claim that the original sole plaintiff had during her lifetime reserved life interest on herself and settled the properties to the proposed plaintiffs 2 and 3. The said application without even ordering notice, came to be dismissed by the Trial Court on the ground that an application under Order 1 Rule 10(2) of CPC was not maintainable and the petitioner was directed to file an application under Order XXII Rule 3 of the CPC.

2. Assailing the said order, Mr. N. Nagu Sah, the learned counsel for the petitioner would submit that the petitioners are the beneficiaries under the registered Settlement Deed and since the original plaintiff had reserved a life interest on herself, the proposed plaintiffs were not aware of the said suit that was initiated by the sole plaintiff. Subsequent to the demise of the sole plaintiff, in view of the cause of action surviving, the proposed plaintiffs sought to implead themselves as plaintiffs 2 and 3 in the said suit. He would further submit that the application was filed under Order 1 Rule 10(2) of CPC, since the



petitioners were claiming under the registered settlement deed, an independent right and not as legal representatives of the deceased sole plaintiff and argued that the Trial Court ought not to have dismissed the application raising a technical objection.

3. Per contra, Mr. M. Kamalakannan, the learned counsel for the respondent would submit that before the Trial Court, the second petitioner has not even filed vakalat and the certified copy of the vakalat is also made available for my perusal, wherein it is seen that it is only the first petitioner, who has signed the vakalat and therefore, the application seeking to implead the second petitioner could not have in any manner been taken up, or processed by the Court.

4. The learned counsel for the petitioner would state that liberty may be given to the petitioners to take out a fresh application seeking impleadment of both petitioners. It is also made clear that the petitioners shall also file a true copy of the death certificate of late G. Sakunthala, the sole plaintiff, along with the application, which may be filed either under Order 1 Rule 10(2) of CPC or under Order 22 Rule 3 of CPC.



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P.B. BALAJI, J.,
stn

5. In the light of the above, this Court grants liberty to the petitioners to take out fresh application for impleading themselves as plaintiffs 2 and 3 in the suit initiated by the sole plaintiff.

6. With the above direction, this civil revision petition is disposed of.
There shall be no order as to costs.

03.07.2025

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
stn

To
The II Assistant Judge,
II Assistant City Civil Court at Chennai.



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