



C.R.P.(PD)No.5106 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.01.2025**

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CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.5106 of 2024
and C.M.P.No.28644 of 2024

1.K.Ramasamy

2.K.Arumugam

.. Petitioners

Vs.

Velappan (deceased)

1.Special Officer,
K-918, Gettisamudram Nilakudiiyetra Kootravu Sangam Limited,
Anthiyur, Anthiyur Taluk,
Erode District.

2.Lakshmi @ Alees

3. Sivasakthi

4.Rani @ Sanjeevarani

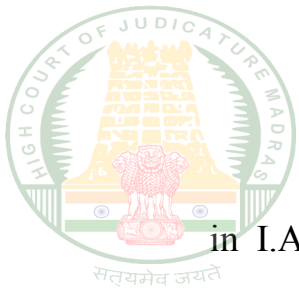
5.Parimala

6.V.Kamaraj

7.Saraswathi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the
Constitution of India, against the fair and decretal order dated 10.09.2024



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in I.A.No.5 of 2021 in O.S.No.19 of 2019 on the file of the learned

WEB CO District Munsif at Anthiyur.

For Petitioner : Mr.P.Chandrasekaran

For Respondents : Mr.Magesh
for Mr.N.Manoharan

ORDER

O.S.No.19 of 2019 is a suit for permanent injunction restraining defendants 1 & 2 from trespassing into the “B” schedule property or interfering with the plaintiffs' right.

2. The civil revision petitioners are the plaintiffs and the respondents are the defendants. The case of the plaintiffs is that the “A” and “B” suit schedule mentioned property was allotted by the 2nd defendant in favour of their father one Karuppan. Karuppan passed away some time in 1972. On his death, the plaintiffs and the 1st defendant partitioned the property amongst themselves. The “A” schedule property was allotted to the 1st defendant and the “B” schedule property was allotted to the plaintiffs. They claim that they have been in possession and enjoyment of the property for 40 years. As the defendants attempted to dispossess the plaintiff from “B” schedule property, they presented



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O.S.No.16 of 2013 on the file of the District Munsif Court at Bhavani. On account of the creation of a Court at Andhiyur, the suit stood transferred from the file of the District Munsif Court at Bhavani to the file of the District Munsif Court at Anthiyur, which was re-numbered as O.S.No.19 of 2019.

3. Pending the suit, the 1st defendant Velappan passed away on 11.06.2021. Hence, the plaintiffs filed an application in I.A.No.5 of 2021 to bring on record the legal representatives of the deceased Velappan. The said application was opposed by the legal representatives of the deceased Velappan.

4. The learned Trial Judge came to a conclusion that being a suit for injunction, on the death of Velappan, the suit loses its vitality. He held that a petition to bring on record the legal representatives is not maintainable in a suit for injunction and dismissed the same.

5. The very issue was presented before me in ***G.Rani (died) and another v. M.Thiagarajan and others, 2023 (3) TLNJ 550***. After referring to Section 306 of the Indian Succession Act, 1925, I held that



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the relief of injunction being in the nature of a specific relief by the death of the defendant, the proceedings do not abate. This judgment squarely applies to the facts of this case. The legal representatives of the deceased defendant are entitled to be brought on record by virtue of Section 146 of the Code of Civil Procedure.

6. Accordingly, the civil revision petition stands allowed on the following terms:

(i) The order passed by the learned District Munsif at Anthiyur is set aside.

(ii) I.A.No.5 of 2021 in O.S.No.19 of 2019 stands allowed.

(iii) The plaintiff will be entitled to file an amended plaint impleading the legal representatives on record.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

10.01.2025

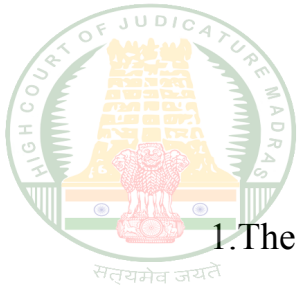
Index:Yes/No

Internet:yes/No

Neutral Citation:Yes/No

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To



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2.Special Officer,
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Anthiyur, Anthiyur Taluk,
Erode District.

V.LAKSHMINARAYANAN,J.



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