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C.R.P.(PD).No. 453 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 453 of 2025

C.P.Nagarajan

...Petitioner

Vs.

1.Lakshmi

2.Nalammal

3.Muthu Naicker

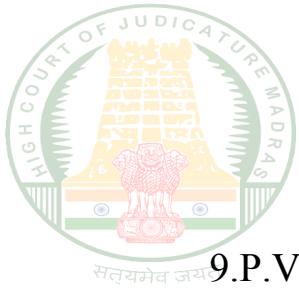
4.Sakthivel

5.Nallaiyan

6.Chandralekha

7.T.Rajan

8.V.Dhanalakshmi



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9.P.V.Lenin

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10.J.Mohan

11.P.Ravikumar

12.Rajeswari

13.N.Ganesan

14.Lakshmi Krishnasamy

15.Palaniyammal

16.T.Rajammal

17.S.Jaya

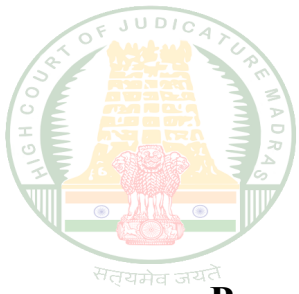
18.M.Murugesan

19.Usha Mohan

20.M.Sushanth Jayaraman

21.M.Jayanth Jayaraman

...Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 15.11.2024 in unnumbered IA.SR.No.4714 of 2024 in OS.No.162 of 2018 on the file of the Principal Subordinate Judge, Namakkal.

For Petitioner : Mr. S.Mayilnathan

ORDER

Challenging the frequent return of the plaintiff's petition for seeking leave of the Court to serve the defendants through Whatsapp the plaintiff is before this Court.

2. The plaintiff filed a suit O.S.No.162 of 2018 on the file of the Principal Sub Court, Namakkal seeking to cancel the sale deed executed by the 13th defendant in favour of defendants 1 to 12 on 01.12.1997 and to consequently grant vacant possession of the suit property and for injunction restraining the defendants from creating



any encumbrance in respect of the suit property.

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3. The suit was pending trial. The 10th defendant passed away on 17.11.2022 and an application was filed to bring on record his legal heirs as defendants 19 to 21 in the suit. The summons has been served on the 19th defendant. However, it has not been served on defendants 20 and 21 and the summons issued to them has been returned as they are living abroad. The petitioner had got the telephone numbers of defendants 20 and 21 from the 19th defendant. Therefore, the plaintiff sought leave of the Court to serve defendants 20 and 21 through whatsapp.

4. The application was returned on the ground asking how the petition was maintainable. The petitioner submitted necessary explanation. However, the learned Trial Judge has been returning the application. Thus aggrieved the petitioner is before this Court.



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5. Heard the learned counsel for the petitioner.

6. The learned Trial Judge had initially returned the application on the *ground of maintainability*. The same has been clarified by the learned counsel for the petitioner by submitting authorities. However, despite the authorities having been produced the learned Trial Judge returned it stating *that e-mail ID of defendants 20 and 21 had to be produced*. The same was re-presented stating that mobile number had been mentioned in the affidavit. Once again it was returned with the endorsement *previous return not complied with hence returned*. The petitioner re-presented it once again with an endorsement that the whatsapp number has been produced and the same can be verified by the Court.

7. On 04.11.2024, it has been returned with the same endorsement *previous return not complied with*. The petitioner has once again represented it with an email ID of 21st defendant and stated



that they are unable to get e-mail ID of the 20th defendant. However, telephone number has been given. However, totally ignoring the submission once again the learned Judge has returned the application stating that the *previous return not complied with*. Hence, the civil revision petition.

8. Heard the learned counsel for the petitioner.

9. The petitioner produced for the scrutiny of the learned Trial Judge the Judgement of **CDJ 2020 SC 616**, wherein the Hon'ble Supreme Court has held that service can be done through e-mail and instant messaging services like whatsapp, Telegram, Signal etc., The petitioner has provided the e-mail ID of the 21st respondent, who is the brother of the 20th respondent and the whatsapp number has been given by the 19th defendant who is none else than the mother of defendants 20 and 21.



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10. In view of the above, the learned Principal Sub Judge, Namakkal, shall number the application. In case the learned Judge is not inclined to number the petition, he shall give an hearing to the plaintiff and thereafter pass speaking orders.

11. The Civil Revision Petition is allowed with the above directions. No costs.

12.02.2025

Index : Yes/No

Internet : Yes/No

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Note: The Registry shall return the original documents to the learned counsel for the petitioner after getting necessary endorsement.



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To

The Principal Subordinate Judge,
Namakkal.



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P.T. ASHA, J,

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