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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.6361 of 2025

Smt.Oorammal

... Petitioner

Vs.

Smt.Radha (deceased)

1. The Commissioner,
Gummidipoondi Town Panchayat,
Gummidipoondi

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the order of the learned District Munsif cum Judicial Magistrate, Pallipet dated 19.11.2025 made in I.A.No. Nil of 2025 in O.S.No.61 of 2023 and direct the learned District Munsif cum Judicial Magistrate to number the same.

For Petitioner : Mr.G.Jermiah
For Respondent : Mr.B.Tamil Nidhi
For 1st respondent

ORDER

Heard Mr.G.Jermiah, learned counsel for the petitioner and



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Mr.B.Tamil Nidhi, learned counsel appearing for Town Panchayat.

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2. Learned counsel for the petitioner inviting my attention to the return dated 19.11.2025, would state that the Court below ought not to have dismissed the restoration application which was filed to restore the suit that has been dismissed for default. Learned counsel states that an application has been validly filed under Order IX Rule 9 of Civil Procedure Code and the trial Court ought not to have gone to the merits of the averments set out in the application to non-suit the petitioner citing clever drafting and creating illusion of cause of action.

3. Mr.G.Jermiah, learned counsel for the petitioner also brings to my notice that the fact of the first defendant died on 29.08.2023 was even brought to the notice of the trial court and the trial court had also permitted impleadment of the legal heirs of the first defendant and steps have been taken in this regard as well.

4. Learned counsel for the respondent submits that the property is situate beyond the jurisdiction of the Gummudipoondi Panchayat and therefore there is no infirmity in the order of the trial court rejecting the

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application.

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5. The suit has been filed before the District Munsif-cum-Judicial Magistrate, Pallipet and numbered as O.S.No.61 of 2023 and the said suit came to be dismissed for non-prosecution. It is in order to restore the suit to file, an interlocutory application has been filed under Order IX Rule 9 of Civil Procedure Code. The court below could not have gone into the merits of the suit claim or the averments set out in the affidavit filed in support of the application to hold that the petition was not maintainable. The proper course of action would be to number the application and after hearing the respondents, both the Commissioner, Gummudipoondi Town Panchayat as well as the legal representatives of the deceased first defendant alone, the trial Court should have passed orders on the merits of the application as to whether the petitioner was entitled to restoration of suit or not and also taking into the ratio laid down by this Court in the case of ***Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd*** reported in ***2021 SCC Online Mad 2514***.

6. In view of the above, I am inclined to set aside the order passed by the District Munsif cum Judicial Magistrate, Pallipet in unnumbered 3/4



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P.B.BALAJI.,J

sr

I.A.No.Nil of 2025 dated 19.11.2025 and the civil revision petition is allowed.

7. Registry is directed to return the original affidavit and petition filed under Order IX Rule 9 of Civil Procedure Code to the learned counsel for the petitioner within a period of one week from the date of receipt of a copy of this order to enable the petition to-represent the papers before the trial court. No costs.

12.12.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No

sr

To

The District Munsif cum Judicial Magistrate Court,
Pallipet

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