



C.R.P(NPD)(MD)No.734 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 22.01.2025**

**CORAM :**

**THE HONOURABLE Mr. JUSTICE G.ILANGO VAN**

**C.R.P(NPD)(MD)No.734 of 2024**  
**and C.M.P(MD)No.3851 of 2024**

Thalaimuthuambalam (Died)

1.T.Thangaraj

2.T.Mohan

3.D.Mariammal

4.M.Seethaiammal

5.T.Ponnuthai

... Petitioners

Vs

1.R.Neethirani

2.R.Varun

3.R.Abinaya

4.T.Rajaram

O.B.Kesavan (Died)

O.K.Magesh (Died)

5.Mt.Sathayppa Thevar

6.O.M.Umarani

7.Minor.Navanitha

(7<sup>th</sup> respondent represented by her  
mother/natural guardian 6<sup>th</sup> respondent)

... Respondents



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Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decreetal order dated 04.12.2023 made in E.A.No.3 of 2023 in E.P.No.18 of 2015 in O.S.No.321 of 2004 on the file of the District Munsif Court, Melur.

For petitioners : Mr.M.Vallinayagam,  
Senior Counsel for  
Mr.J.Anandkumar

For Respondents : Mr.C.M.Arumugam for R1 to R3  
Mr.C.S.Ravichandran for R4

### **ORDER**

This Civil Revision Petition is filed against the fair and decreetal order dated 04.12.2023 made in E.A.No.3 of 2023 in E.P.No.18 of 2015 in O.S.No.321 of 2004 on the file of the District Munsif Court, Melur.

#### **2. The facts in brief:**

One Thalaimuthuambalam has filed a suit against four persons seeking the relief of specific performance of contract dated 15.04.1994. The said suit was dismissed. Against which, appeal was preferred. The appellate Court reversed the judgment and decree of the trial Court and



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decreed the suit. Against which, Sathiappa Thevar filed second appeal in S.A.No.938 of 2008 before this Court. By the judgment and decree dated 20.12.2011, the second appeal was dismissed, confirming the judgment and decree passed by the appellate Court. Against which, Civil Appeal No.6844 of 2015 was preferred by Sathiappa Thevar. The Hon'ble Supreme Court remitted the matter back to the High Court to frame substantial question of law and decide the same. Based on which, again the case was taken up by this Court and substantial questions of law were framed and ultimately, second appeal was dismissed. To execute the decree and judgment, E.P.No.18 of 2020 was filed by the decree holder before the District Munsif Court, Melur. Pending the execution petition proceedings, E.A.No.3 of 2023 was taken up by the proposed parties to implead themselves as petitioners. By an order dated 04.12.2023, the Execution Court allowed the petition and impleaded the proposed parties as additional petitioners. Against which, this Civil Revision Petition is preferred.

**3. Heard both sides.**



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4. For better appreciation of the issues involved, we can have a look into the relationship between the proposed parties and the main execution petitioners. As mentioned above, Thalaimuthuambalam is the plaintiff and pending the appeal proceedings, Thalaimuthuambalam died. The revision petitioners were brought on record as legal heirs of Thalaimuthuambalam. Apart from the revision petitioners, Thalaimuthuambalam had a son by name Rajendran. He predeceased Thalaimuthuambalam. The proposed parties are the legal heirs of deceased Rajendran. Therefore, they are also the legal heirs of deceased Thalaimuthuambalam, which fact was suppressed by the revision petitioners at the time of hearing the second appeal. They were not brought on record during the second appeal proceedings. Being the grandchildren and daughter-in-law of Thalaimuthambalam, they are entitled to implead as additional petitioners. This is the factual ground.

5. The ground taken by the revision petitioners is that on the question of factual issue Rajendran predeceased Thalaimuthuambalam; even during the life of Thalaimuthuambalam, Rajendran separated from the family; after his death, his legal heirs, by receiving the settlement



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amount, left the native village. Therefore, they cannot be construed as legal heirs of deceased Thalaimuthuambalam. This is the factual ground taken by the revision petitioners.

6. The factual ground need not be taken seriously by this Court, because it is a matter for evidence during enquiry. But the short point which arises for consideration is whether the proposed parties are necessary parties in the execution proceedings.

7. The learned Senior Counsel appearing for the revision petitioners has drawn the attention of this Court to a judgment of this Court in ***Ponnuswami Gounder Vs. Rama Boyan and others*** reported in ***AIR 1979 MADRAS 130*** and submitted that they can only be impleaded as respondents, but certainly not as petitioners. He has also cited another judgment of the Hon'ble Supreme Court in ***Jaladi Suguna (Deceased) through LRs Vs. Satya Sai Central Trust and Others*** reported in ***(2008) 8 Supreme Court Cases 521***.

8. Per contra, the learned counsel appearing for the respondents by



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filing the affidavit of Sathiappa Thevar in S.A.(MD)No.938 of 2008 would submit that the availability of the proposed parties were not verified by him. He filed the affidavit stating that to his knowledge, except the revision petitioners no other legal heirs are available to the deceased plaintiff. According to him, now it is made on record that the proposed parties are also the legal heirs of deceased plaintiff. They must be impleaded and they are also entitled to get the sale deed registered in their name jointly with the revision petitioners.

9. But, whether the proposed parties are also entitled to get the sale deed registered jointly with the revision petitioners is to be decided by the Execution Court in view of the judgment of the Hon'ble Supreme Court in ***Jaladi Suguna (Deceased) through LRs Vs. Satya Sai Central Trust and Others*** reported in ***(2008) 8 Supreme Court Cases 521***. But, as mentioned above, they cannot be impleaded as petitioners. If at all, they can be impleaded only as respondents.

10. Another submission made by the learned Senior Counsel for



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the revision petitioners is that the Execution Court cannot decide the *inter se* dispute between the revision petitioners and the proposed parties.

If at all they can take only separate action in respect of the property, because it may involve a large issue. I am not expressing any opinion on that issue now. As mentioned above, it is for the Execution Court to decide the issue. The learned Senior Counsel appearing for the petitioners would submit that in the execution proceedings, third party cannot be permitted to be impleaded. But, by invoking Section 151 of C.P.C., the proposed parties can be impleaded and there could be no prohibition in that. Therefore this ground is also not available. But, when the proposed parties were also the legal heirs of the deceased plaintiff, the matter must be decided only in their presence.

**11.** For the interest of all the parties, I am of the considered view that the order passed by the Execution Court to be modified and accordingly, modified and the proposed parties are directed to implead as respondents. To that extent, the revision petition stands allowed.

**12.** Accordingly, this Civil Revision Petition is partly allowed. No



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costs. Consequently, connected miscellaneous petition is closed.

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**22.01.2025**

NCC :Yes/No  
Index :Yes/No  
Internet : Yes/ No  
vsm



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To

- 1.The District Munsif, Melur.
- 2.The Section Officer, VR Section,  
Madurai Bench of Madras High Court, Madurai.



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**G.ILANGO VAN, J.**

vsm

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