



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1587 of 2021

Meenakshi Sundaram (Died)

M.Sankaran

...Petitioner

Vs.

1.R.Sankaran

2.S.Rameshkumar

3.B.Sundari

4.M.Jeyanthi

5.Soora Nadar

6.Ramasamy

7.A.Murugan

8.M.Ayyappan

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 13.08.2021 in I.A.No.4 of 2021 in O.S.No.45 of 2015 on the file of the learned Additional District Munsif, Tenkasi.



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For Petitioner : Mr.G.Prabhu Rajadurai

For R-2 : Mr.R.J.Karthick

R-1 : Died

For R-3 to R-8 : No appearance

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ORDER

This petition has been filed seeking orders to set aside the fair and decreetal order dated 13.08.2021 made in I.A.No.4 of 2021 in O.S.No.45 of 2015 on the file of the learned Additional District Munsif, Tenkasi.

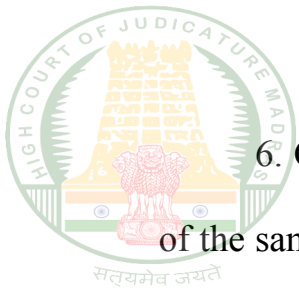
2. The father of the petitioner herein filed a suit in O.S.No.45 of 2015 on the file of the learned District Munsif, Tenkasi, seeking declaration and permanent injunction against the respondents herein. The petitioner's father died on 25.12.2019, leaving behind two sons and two daughters, including the petitioner. Upon coming to know about the pendency of the said suit, the petitioner filed a petition in I.A.No.4 of 2021 under Order XXII Rule 3 read with Section 151 of the Code of Civil Procedure to bring himself on record as a legal representative. However, the said petition was dismissed on the ground that the other legal heirs had not been impleaded as parties. Aggrieved by the said order, the present Civil Revision Petition has been filed.



3. The learned counsel appearing for the petitioner would submit that the observation made by the trial Court is unsustainable in law. It is well settled that any one of the legal heirs can prosecute the suit on behalf of the deceased. In the present case, the petitioner is one of the legal heirs and cannot be compelled to implead the other legal heirs. It is for the remaining legal heirs to come on record, either by filing an application or joining as parties. The respondents/defendants have no right to insist upon the impleadment of all the legal heirs. Further, the order passed by the trial Court is contrary to the settled position of law. Accordingly, he prays for allowing the petition.

4. The learned counsel appearing for the second respondent would submit that there are five legal heirs of the deceased, and there was previous litigation among them pertaining to the subject property. In light of the strained relationship among the legal heirs, the bona fides of the petitioner in representing the intestate of the deceased are seriously in question. The learned counsel further submits that the petition under Order XXII Rule 3, having been dismissed by the trial Court, does not warrant interference. He also submits that the main suit itself was dismissed by the trial Court during the lifetime of the petitioner's father. Accordingly, he prays to dismiss the petition.

5. Though the names of respondent Nos. 3 to 8 were printed in the cause list, there was no representation on behalf of them.



6. Considering the pendency of the case, this Court is inclined to dispose of the same based on the available records.

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7. In the present case, the original plaintiff, one Meenakshi Sundaram, died on 25.12.2019. One of his legal heirs, viz., M. Sankaran, filed a petition before the trial Court seeking to come on record as a legal representative of the deceased plaintiff. However, the said petition was rejected. The petitioner cannot compel the other legal heirs to join with him. It is for them to decide on their own. Hence, the order passed by the trial Court is perverse and contrary to settled principles, and accordingly, the fair and decreetal order dated 13.08.2021 made in I.A.No.4 of 2021 in O.S.No.45 of 2015 on the file of the learned Additional District Munsif, Tenkasi, is liable to be set aside. The trial Court is directed to restore O.S.No.45 of 2015 to file and allow the petition filed by the petitioner for bringing the intestate of the deceased plaintiff on record. Liberty is granted to the respondents/defendants to raise all contentions available to them before the trial Court, including filing appropriate applications to implead any other legal heirs, if so advised.

8. Accordingly, the Civil Revision Petition stands allowed. No costs.

13.06.2025

Internet: Yes/No
Index: Yes/No
TSG



To

1.The Additional District Munsif, Tenkasi.

2.The District Munsif, Tenkasi.

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3.The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

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