



C.R.P(MD)No.1785 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.01.2025
DELIVERED ON : 23.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.1785 of 2024
and
C.M.P(MD)No.10171 of 2024

V.Govindaraj (Died)

1.V.G.Madhavan

2.G.Kothai

3.G.Gunaveerasesaran

... Petitioners

Vs.

1.R.Subramanian

2.Dhanabackiyam

3.The Branch Manager,
State Bank of India,
Karaikudi Taluk, Sivagangai District.

4.A.Subramanian

5.The Tahsildar,
Tahsildar Office,
Karaikudi Taluk,
Sivagangai District.

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6.The District Revenue Officer,
District Collectorate,
Sivagangai District.

7.The District Registrar,
District Registration Office,
Karaikudi Taluk,
Sivagangai District.

... Respondents

*(Respondents 3, 5 to 7 herein were set ex parte
before the Trial Court and hence, service of notice
/ summons on them may be dispense with)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 03.06.2024 passed in I.A.No.1 of 2023 in O.S.No.54 of 2022 on the file of the learned Sub Court, Devakottai by allowing this Civil Revision Petition.

For Petitioners : Mr.V.Meenakshi Sundaram

For R-1, R-2
& R-4 : Mr.D.Venkatesh

For R-3 : No appearance

For R-5 to R-7 : Mr.B.Saravanan
Additional Government Pleader



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ORDER

This Civil Revision Petition is preferred against the order passed in I.A.No.1 of 2023 in O.S.No.54 of 2022 on the file of the Sub Court, Devakottai.

2. The revision petitioners are the proposed plaintiffs. The above suit in O.S.No.54 of 2022 was filed by one Govindaraj against the respondents / defendants for declaration of title, permanent and mandatory injunction against the defendants. Pending suit, the plaintiff / Govindaraj died on 02.12.2022 and the proposed parties / revision petitioners filed an application to implead them as legal heirs of the deceased plaintiff. The said application was resisted on the side of the defendants / respondents stating that the daughter of deceased Govindaraj, namely, Kayalvizhi was not included in the above petition. However, the Trial Court dismissed the said application by stating that one of the legal heirs of the deceased Govindaraj, namely, Kayalvizhi was not included and by stating so, dismissed the said application. Aggrieved by this, the present revision is preferred.



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3. The learned Counsel appearing for the revision petitioners submits that as per “Doctrine of sufficient representation”, the proposed petitioners can sufficiently represent the estate of the deceased original plaintiff in the suit. Therefore, the Trial Court erred in dismissing the entire application for not impleading one Kayalvizhi, daughter of the deceased original plaintiff. He would further submit that since the said Kayalvizhi married out of caste and relinquished her right over the property and therefore, the said Kayalvizhi need not be impleaded in the suit. Even otherwise, the said Kayalvizhi alone has the right to oppose the implead petition excluding her name and the respondents / defendants have no *locus standi* to oppose the said application.

4. Heard the learned Counsel for the petitioners, the learned Counsel for the respondents 1, 2 and 4 and the learned Additional Government Pleader for the official respondents and perused the materials available on record.



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5. Admittedly, the deceased Govindaraj has filed the above suit for declaration, permanent injunction and for mandatory injunction. It is also not in dispute that pending suit, the said Govindaraj died. Thereafter, the revision petitioners filed an application in I.A.No.1 of 2023 to implead themselves as plaintiffs stating that they are the legal heirs of the deceased plaintiff. The said application was opposed by the defendants / respondents stating that one of the legal heirs, namely, the daughter of the deceased Govindaraj was not included in the implead petition. The Trial Court also dismissed the said application on the said ground by stating that the said Kayalvizhi has necessarily to be added as a party in the suit either as plaintiff or as defendant, by stating so, dismissed the implead petition filed by the revision petitioners.

6. Therefore, having regard to the factum of existence of other legal heir of the deceased plaintiff, the Trial Court straight away came to the conclusion that without adding the said Kayalvizhi, the petition was required to be dismissed and ordered accordingly. No doubt, the revision petitioners ought to have taken steps to implead the said Kayalvizhi as legal heir of late Govindaraj either as plaintiff or as a defendant to enforce their



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right over the property in question. The Trial Court was not justified in rejecting the prayer made by the revision petitioners to implead themselves as plaintiffs in the above suit and could not have rejected on the reasons assigned by the learned Trial Judge.

7. It is not in dispute that the proposed plaintiffs and the said Kayalvizhi are the legal heirs of the deceased Govindaraj. That being the position, the petition filed by the legal representative of the deceased plaintiff could not have been declined altogether by the Trial Court. The Trial Court ought to have considered whether the said Kayalvizhi is a necessary party applying the principles of “Doctrine of sufficient representation” or direct the petitioners to include the said Kayalvizhi in the implead petition.

8. That being the position, I am inclined to set aside the order passed by the Trial Court and restore the said application for re-consideration by the Trial Court in accordance with law.



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9. The Civil Revision Petition stands allowed in the above terms.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

23.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Sub Court,
Devakottai.



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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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