



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1803 of 2022

and

C.M.P.(MD).No.8071 of 2022

Murugaiah

...Petitioner

Vs.

1.Chairmathurai

Sudalaimani Nadar (Died)

2.The Tahsildar,
Office of the Tahsildar,
Radhapuram,
Tirunelveli District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

4.The District Collector,
Office of the District Collector,
Tirunelveli.

...Respondents

PRAYER: Civil Revision Petition is filed under under Article 227 of Constitution of India to allow the Civil Revision Petition and to set aside the fair and decreetal order dated 04.07.2022 made in I.A.No. 3 of 2021 in O.S.No. 197 of 2017 on the file of Principal District Munsif Court, Valliyoor, and allow the Civil Revision Petition.



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For Petitioner	: Mr.V.George Raja
For R1	: Mr.H.Arumugam
For R2 to R4	: Mr.B.Saravanan Additional Government Pleader

ORDER

This petition has been filed seeking to set aside the fair and decreetal order dated 04.07.2022 made in I.A.No. 3 of 2021 in O.S.No.197 of 2017 on the file of Principal District Munsif Court, Valliyoor.

2. The deceased plaintiff, viz., Sudalaimani Nadar, filed a suit in O.S.No. 197 of 2017 before the learned Principal District Munsif, Valliyoor, seeking declaration and other reliefs in respect of the suit property against the petitioner/first defendant and respondents 2 to 4. The plaintiff died on 23.04.2018. His male children filed applications in I.A.Nos.1 and 2 of 2019 for (i) setting aside the abatement, and (ii) to implead themselves as the legal heirs under Order XXII Rule 3 CPC. Both these applications were dismissed by the trial Court on 02.02.2021. Consequently, no steps were taken within the stipulated 150 days on or before 23.09.2019 for bringing the legal representatives on record. Thereafter, the suit has become dismissed as abated. Subsequently, the first respondent herein filed an application in I.A.No.3 of 2021 under Order I Rule 10(2) CPC seeking to implead himself as plaintiff in the suit. The trial Court, by order dated 04.07.2022, allowed the said application. Aggrieved by the same, the present revision petition is filed.



3. The learned counsel for the petitioner would submit that the suit already stood dismissed as abated. Earlier applications filed by the first respondent along with another for setting aside the abatement and for impleading the male children as legal heirs were dismissed by the trial Court. Those orders were not challenged. Without challenging such dismissal orders, filing a fresh application under Order I Rule 10 (2) CPC is impermissible. The trial Court has committed a grave error in allowing the application ignoring its own earlier orders.

4. The learned counsel for the first respondent would fairly admit that earlier applications were dismissed. However, he would contend that in order to protect his interest in the subject property, he has taken steps to get himself impleaded as plaintiff, and the trial Court rightly allowed the same to avoid multiplicity of proceedings.

5. It is an admitted fact that the sole plaintiff died on 23.04.2018. The provisions of Order XXII Rule 3 CPC require that legal representatives of the deceased plaintiff be brought on record within the stipulated time, failing which the suit abates. In the present case, the applications filed in I.A.Nos.1 and 2 of 2019 for setting aside abatement and for impleading the legal representatives were dismissed by the trial Court on 02.02.2021. Those dismissal orders have attained finality, as no appeal or revision has been filed. Once the suit has



abated and the petitions to set aside the abatement have been dismissed, the only consequence is that the suit itself cannot be revived. Filing a subsequent application under Order I Rule 10 CPC for impleading another person as plaintiff, without first getting the abatement set aside, is not legally sustainable. The trial Court, while allowing I.A.No.3 of 2021, failed to take into consideration the legal effect of its own earlier dismissal orders in I.A.Nos.1 and 2 of 2019. The impugned order therefore suffers from jurisdictional error and cannot be sustained.

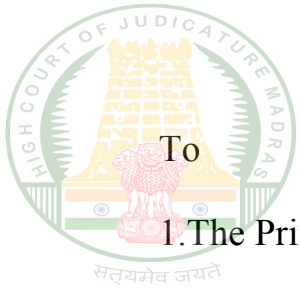
6. In the result, the Civil Revision Petition is allowed. The fair and decreetal order dated 04.07.2022 made in I.A.No.3 of 2021 in O.S.No.197 of 2017 on the file of the Principal District Munsif Court, Valliyoor, is hereby set aside. If any costs have been received by the petitioner pursuant to the impugned order, the same shall be refunded to the first respondent. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2025

Internet: Yes/No

Index: Yes/No

TSG



To

1.The Principal District Munsif Court, Valliyoor

2.The Tahsildar,
Office of the Tahsildar,
Radhapuram
Tirunelveli District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Cheranmahadevi
Tirunelveli District.

4.The District Collector,
Office of the District Collector,
Tirunelveli

5.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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