

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM, KANCEEPURAM DISTRICT**

**PRESENT: Tmt.R. Rajeswari,B.Com.,L.L.M.,
Principal District Munsif, Kanchipuram**

On Thursday, this the 4th day of August 2022

IA.No.2 of 2022
In
O.S.No. 23 of 2018

V.Manavalan

...Petitioner/Plaintiff

/Versus/

1. V.Mangalakshmi (died)
2. V.Radhakrishnan
3. R.usha
4. M.Bhuvaneswari

...Respondents/Defendants

This petition having coming up on 18.07.2022 for final hearing before me in the presence of Thiru.P.K.Thevarajan, advocate for the petitioner and Thiru T.Durga Kamatchi and J.karpagam, advocates for the respondents and upon hearing the arguments of both sides and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

ORDER

1. This petition is filed under Order 22 Rule 9 and Section 151 of CPC to set aside the abatement in the above case.

2. The case of the petitioner as stated in his affidavit is as follows:-

The petitioner submitted that the above case has been filed by the petitioner against the respondent/defendant to Declaration. The above case was posted on 03.02.2021 for hearing. In mean time above 1st defendant as well as the petitioner mother V.Mangalakshmi was died on 16.11.2019, hence the petitioner could not contact his counsel and filing the petition. The petitioner having a good defence in the above case. Hence pray to allow this petition.

3. The 2nd respondent filed his counter and the gist of the same is as follows:-

The respondent denies all the allegations in the petition filed by the petitioner is false. The respondent submitted that the suit property was executed by the 1st defendant as well as the mother of petitioner and the 2nd respondent infavour of the 2nd respondent through the settlement deed via Doc.No.1887/2017 dt 04.07.2017 and the petitioner without having any right towards the property file the suit for declaration of the settlement deed against the respondent only to disturb the peaceful enjoyment of the property by the respondent and denies that the delay of filing this petition is only to drag on the case. Hence this petition may be dismissed.

4. The point for consideration in this petition is whether this petition is to be allowed or not.

The Point:

5. Heard both sides and perused the records. The petitioner/plaintiff filed this suit for declaration that the settlement deed on 04.07.2017, Reg.No.1887/2017 at the office of the S.R.O.Walajabad as null and void . The above case was posted on 03.02.2021. In the mean time the above 1st defendant as well as the petitioner mother V.Mangalakshmi (died) was died on 16.11.2019. Hence the petitioner could not contact his counsel and filing the petition.
6. The 2nd respondent filed counter stated that the suit property was executed by the 1st defendant as well as the mother of petitioner and the 2nd respondent infavour of the 2nd respondent through the settlement deed via Doc.No.1887/2017 dt 04.07.2017 and the petitioner without having any right towards the property.
7. The petitioner did not dispute the petitioner' relationship with the 1st defendant. The suit is for declaration. The deceased 1st defendant has claimed a settlement deed on 04.07.2017, which has been now devolved upon the 2nd respondent through 1st respondent. In order to decide the suit on merit, the proposed respondent has to be

impleaded as legal heir of deceased 1st respondent. Therefore, this petition can be allowed.

8. In the result this petition is allowed. No cost.

Dictated to the steno-typist, who directly typed the same in her computer corrected and pronounced by me in open court, this the 4th day of August 2022.

Sd/-.R.Rajeswari
PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM