

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

**PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.**

Saturday, the 06th day of April 2024

IA.No.2 of 2022

In

O.S.No.223 of 2016

1. Kollapuri (died)
2. Vithala
3. Jaya Petitioners/Plaintiffs
4. Muthulakshmi
5. Ranjini
6. Ramamoorthy
7. Deepa
8. Vatchala
9. Baby
- 10.Savithiri
- 11.Prabu
- 12.Jagadeesh @ Murugan Petitioners/Proposed 4 to 12 plaintiffs

Versus

1. Rajagopal (died)
2. Mani
3. Suriyakumar Respondents/Defendants

This petition came up for hearing on 06.04.2024, in the presence of Mr.R.Suresh Kumar, learned counsel for the Petitioners, Mr.G.Nanthagopal, learned counsel for the Respondent 2 and 3. Upon hearing the arguments made by the learned counsel for the petitioners and the respondents 2 and 3 and on perusal of the material case records, having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition is filed under Order 22 Rule 9 of CPC to set aside the abatement caused in filing the application to implead the legal heirs of the of the deceased 1st plaintiff.

2. Brief averments of the affidavit filed by the petitioners are as follows:

2.1. The 3rd petitioner, who is the 3rd plaintiff in the above suit files this affidavit on her behalf and on behalf of the other plaintiffs. She submits that the plaintiffs have filed this suit for a relief of permanent injunction as against the respondents/ defendants. While pending suit, the 1st plaintiff namely, Kollapuri died on 14.02.2021 leaving behind her, the 4 to 12 petitioners/proposed plaintiffs as her only legal heirs and there are no other legal heirs.

2.2. The 3rd petitioner further submits that due to the lockdown announced by the State Government during the Covid 19 pandemic situation, the plaintiffs were unable to contact their counsel in time to file the application to implead the legal heirs of the deceased 1st plaintiff. Hence the suit was abated automatically as against the 1st plaintiff. The Hon'ble Supreme Court of India has also extended the period of limitation from 28.02.2022 for 90 days for filing any petition before the courts in India. Hence this application has been filed to set aside the said abatement as against the 1st plaintiff.

3. Brief averments of the counter filed by the 3rd respondent and adopted by the second respondent are as follows:

3.1. The 3rd Respondent submits that the petitioners have not submitted any documents like Death Certificate, legal heirship certificate or any other ID proofs in order to prove that the proposed petitioners are the legal heirs of the deceased 1st petitioner. The plaintiffs have created invalid instrument in respect

of the suit property colluding with land grabbers without any right, title or interest. Based on the invalid instruments the plaintiffs are trying to grab the suit property from the hands of the defendants.

3.2. The 3rd respondent submits that to get the benefit under the section under which this petition is filed the cause of the delay must be beyond the control of the party and it must not be attributable to their negligence or want of care and each day delay must be satisfactorily explained. Hence this petition is liable to be dismissed with exemplary costs.

4. On the side of the petitioners no oral or documentary evidence was placed before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not?

5. Heard both sides arguments.

6. Upon careful analysis of the material case records and on considering the arguments, this court finds that this petition has been filed to set aside the abatement of the suit as against the 1st plaintiff. The petitioners 1 to 3 are the plaintiffs 1 to 3 in the suit and the suit has been filed for a relief of permanent injunction as against the defendants. Taking into account of all the averments and contentions of the petitioners and the respondents in this regard and considering the nature of the relief sought for in the suit, and the fact that the respondents have not denied the death of the 1st petitioner / 1st plaintiff and her relationship with the proposed plaintiffs, this court views that the petitioners / proposed plaintiffs 4 to 12 as the legal heirs are necessary parties to the suit for effectual and complete settlement of issues in the suit and to avoid multiplicity of proceedings. Hence, this court is inclined to set aside the abatement of the suit as against the 1st plaintiff. To compensate the delay caused to the respondents due to this petition, this petition is allowed on terms.

7. In the result, this petition is allowed subject to payment of costs of Rs.500/- payable by the petitioners to respondents on or before 23.04.2024. call on 04.06.2024 for reporting compliance.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 06th day of April 2024.

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF
PONNERI.

Both side Witnesses and Exhibits: Nil

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF
PONNERI.

Fair/ Draft Order
I.A.No.2/2022
O.S.No.223/2016
Date:06.04.2024
DMC,PNI.