

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1480 of 2015

1.C.M.Duraisamy (deceased)
2.Regina Duaisamy
3.Sheela Vincent

... Petitioners

v.

1.Madhalai Mary (deceased)
2.Anthony Ammal
3.Jayaraj (deceased)
4.Susaimary
5.Xavier
6.Kuzhandhai Theresa
7.L.M.Lawrence
8.Rathinammal (deceased)
9.Julie (deceased)
10.Pauline
11.Marshall
12.A.Lawrence
13.Sevin
14.Francis
15.Arookiyasamy (deceased)
16.Santhana Mary @ Victoria
17.Anthony Joseph
18.Mary Peter
19.Jayamarriammal (deceased)
20.Stanish Lawns
21.Manoharan
22.Joseph @ Mariya Joseph
23.Margaret
24.Victor
25.Amalraj

26.Nirmal Kumar (died)

(Dispense with the notice to the respondents
4 to 6, 8 to 26, since they are formal parties
and they are set aside during Trial Court)

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the I Additional District Munsif Court, Coimbatore to dispose the pending E.P.No.18 of 2014 in O.S.No.936 of 1977 irrespective of any E.As filed by the contesting respondents within the stipulated period at the earliest point of time as fixed by this court.

For Petitioner : Mr.R.Ganesh Babu

For Respondents : Mr.T.Dhanasekaran_

ORDER

The plaintiff in O.S.No.936 of 1977 on the file of I Additional District Munsif Court, Coimbatore has filed the above Civil Revision Petition to direct the Execution Court to dispose of the Execution Petition in E.P. No.18 of 2014, within a stipulated time.

2. The plaintiff filed the suit in O.S.No. 936 of 1977 for partition in the year 1977. On 03.12.1980, the Trial Court passed a preliminary decree, which was also confirmed by the Hon'ble Supreme Court in S.L.P.No.15600

of 1996 on 26.11.1996. Thereafter, the 3rd defendant filed final decree application in I.A.No.543 of 2001, which was renumbered as I.A.No.1565 of 2005 and the Trial Court passed a final decree on 24.09.2013. The Second Appeal filed as against the final decree was also dismissed by this court on 19.8.2015 in S.A.No.265 of 2015. Pursuant to the final decree passed in I.A.No.1565 of 2005, the 3rd defendant filed Execution Petition in E.P.No.18 of 2014.

3. The learned counsel appearing for the petitioner submitted that since the dispute is pending from 1977, the parties are put to hardship and prejudice. Further, the learned counsel submitted that the 2nd respondent has filed an application in E.A.No.105 of 2015 under section 47 of CPC. Further, the learned counsel submitted that though the matter is pending for more than 38 years, the parties are not in a position to enjoy the fruits of the decree till this date.

4. The learned counsel appearing for the respondents submitted that the respondents are taking steps to file review application in the Second Appeal in S.A.No.265 of 2015..

5. Since the matter is pending for nearly 4 decades, I direct the I Additional District Munsif Court, Coimbatore, to dispose of the Execution Petition in E.P.No.18 of 2014 in O.S.No.936 of 1977, on merits and in

accordance with law, within a period of three months from the date of receipt of a copy of this order this order.

With this observation, the Civil Revision Petition is disposed of. No costs.

18.11.2015

Index : Yes/No

Rj

To

I Additional District Munsif Court,
Coimbatore,

M. DURAISWAMY,J.,

Rj

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