

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4649 of 2015 &  
M.P.No.1 of 2015

Sornambal

... Petitioner

v.

1.P.Kannagi  
2.R.Nallasamy  
3.Jayachandran  
4.Sathishkumar  
5.Sadasivam  
6.M.Palanisamy  
7.M.Velusamy  
8.M.Manoharan @ Krishnamoorthy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 08.11.2015 made in E.A.No.201 of 2015 in E.P.No.22 of 2011 in O.S.No.646 of 1993 on the file of the I Additional Sub Court, Erode.

For Petitioner : Mr.N.Manokaran

ORDER

Challenging the fair and final order passed in E.A.No.201 of 2015 in E.P.No.22 of 2011 in O.S.No.646 of 1993 on the file of I Additional Sub Court, Erode, the 9<sup>th</sup> respondent in the Execution Petition has filed the above Civil Revision Petition.

2. The first respondent-plaintiff filed the suit in O.S.No.646 of 1993 for specific performance.

3. The Trial Court, by its judgment and decree dated 28.10.1997, decreed the suit.

4. Aggrieved over the same, the defendants preferred an appeal in A.S.No.120 of 1998 before this court and this court also confirmed the judgment and decree of the Trial Court and dismissed the appeal.

5. Pursuant to the decree passed in O.S.No.646 of 1993, the first respondent-decree holder filed an Execution Petition in E.P.No.22 of 2011. The 9<sup>th</sup> respondent in the Execution Petition was impleaded as the legal representative of the deceased first defendant, viz., Sarasammal, who is her mother.

6. Now, the petitioner has filed the application in E.A.No. 201 of 2015 to permit her to let in oral evidence. In the affidavit filed in support of the application, she has stated that she has got share in the property, therefore, her share should be protected.

7. The contention now raised by the revision petitioner was already raised by her mother, the deceased first defendant before the Trial Court, which was negated by the Trial Court and also confirmed by this court in the First Appeal.

8. It is pertinent to note that the revision petitioner was impleaded only as the legal representative of the deceased first defendant. When the case of the first defendant was negated by the Trial Court as well as this court, the revision petitioner cannot again re-agitate the issue, which was already decided. The suit was filed in the year 1993 and the decree was passed in the year 1997 and even after a lapse of 22 years from the date of filing of the suit, the first respondent-plaintiff is not in a position to get the fruits of the decree. Taking into consideration all these aspects, the Execution Court, has rightly dismissed the application.

9. In these circumstances, I do not find any error or irregularity in the order passed by the Execution Court. The Civil Revision Petition is

devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

17.12.2015

Rj

To

The I Additional Sub Court,  
Erode

M. DURAISWAMY,J.,

Rj

C.R.P.(NPD)No.4649 of 2015 &  
M.P.No.1 of 2015

17.12.2015