



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Civil Appellate Jurisdiction )

Wednesday, the Fourteenth day of December Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CMP(MD) No.115 of 2016

IN

CRP(MD) No.SR50216 of 2016

R.KANNAN

... PETITIONER /3<sup>rd</sup> PARTY

Vs

1 RAVI

.. RESPONDENT / PLAINTIFF

2 THE STATE OF TAMILNADU  
REPRESENTED BY ITS DISTRICT COLLECTOR,  
TRICHY.

3 THE THASILDAR,  
TALUK OFFICE,  
SRIRANGAM, TRICHY.

... RESPONDENTS/DEFENDANTS

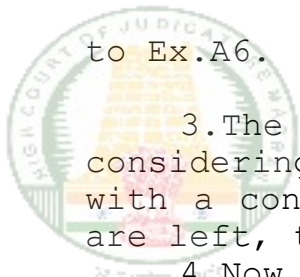
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order by permit the petitioner to file present Revision Petition and thus render justice.

PRAYER IN CRP(MD) No.SR50216 of 2016

Civil Revision Petition against the order passed by the IIIrd Additional District Munsif of Tiruchirappalli, in O.S.No.225/2014 dated 26.11.2014.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. A.HAJA MOHIDEEN, Advocate for the petitioner and of on behalf of the Respondents the court made the following order:-

The petitioner is the third party to the suit in O.S.No.225 of 2014 on the file of the III Additional District Munsif, Tiruchirappalli. The first respondent filed O.S.No.225 of 2014 against the respondents 2 and 3 for declaration that he is the adopted son of deceased Muthusamy and he is the only legal heir of Muthusamy and for a direction to the respondents 2 and 3 to issue a legal heir certificate.



to Ex.A6.

3.The learned III Additional District Munsif, Tiruchirappalli considering both oral and documentary evidence, decreed the suit with a condition that if any legal heirs to the deceased Muthusamy are left, the decree is liable to be set aside.

4.Now, the petitioner has come out with the present Civil Revision Petition challenging the Judgment and decree, passed in O.S.No.225 of 2014, dated 26.11.2014.

5.According to the petitioner, he is one of the brother of the first respondent and their father Perumal is having six sons including the petitioner and first respondent. The deceased Muthusamy is the brother of Rathinam, the father of Perumal. He did not adopt the first respondent as his son. Even during the life time of Muthusamy, the property of Muthusamy were allotted to his brothers' grand-children, who are the sons of Perumal, and separate portions were given his brothers' grand-children including the petitioner and first respondent. The first respondent sold the property, allotted to him, to one Rajagopal by the sale deed, dated 23.03.2015.

6.In the circumstances, the petitioner removed the thatched shed put up by him and making arrangements to get the subsidy benefit for construction of house and construction has been put up to the basement level. At this stage, the first respondent filed a suit for Recovery of Possession and injunction in O.S.No.691 of 2015, on the file of the III Additional District Munsif, Tiruchirappalli stating that he is the only legal heir of Muthusamy. The first respondent obtained decree by playing fraud. As per the judgment of the Hon'ble Apex Court , the decree obtained by fraud is nullity and therefore, he has filed the Civil Revision Petition along with present petition for permission to file the Civil Revision Petition.

7.The first respondent filed counter statement stating that the Civil Revision Petition is not maintainable and only remedy available to the petitioner is to file an appeal.

8.I have heard the learned counsel appearing for the petitioner and the respondents and also perused the materials on record.

9.From the Judgment against which C.R.P., is sought to be filed it has been held as follows:-

"In the result, the suit is decreed as prayed for with a condition that if any legal heirs to the deceased Muthusamy are left the decree is liable to set aside. No costs."

10.According to the petitioner, he is one of the legal heir of Muthusamy along with first respondent and four other brothers. According to the petitioner, the first respondent is not an adopted son of deceased Muthusamy. In the circumstances, as per the



condition mentioned in the Judgment challenging in C.R.P., it is open to the petitioner to file a petition to set aside the Judgment and decree passed by the III Additional District Munsif, Tiruchirappalli in O.S.No.225 of 2014, dated 26.11.2014.

11.With the above direction, this petition is dismissed. No costs.

sd/-  
14/12/2016

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/ TRUE COPY /

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

- 1 THE III ADDITIONAL DISTRICT MUNSIF,  
TIRUCHIRAPPALLI
- 2 THE DISTRICT COLLECTOR,  
TRICHY.
- 3 THE THASILDAR,  
TALUK OFFICE,  
SRIRANGAM, TRICHY.

+1cc to Mr.A.HAJA MOHIDEEN, Advocate Sr.No. 80673

JAM/29.12.16/PM/SAR 3 3p-5c

ORDER  
IN  
CMP(MD) No.115 of 2016  
IN  
CRP(MD) No.SR50216 of 2016  
Date :14/12/2016