



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (MD)No.2279 of 2016

and

C.M.P. (MD)No.10497 of 2016

1. Anbumani
2. Rajalingam Pillai .. Revision Petitioners/Defendants

Vs.

M.Balakrishnan (Died)

1. Kalyani
2. Senthilkumar
3. Vijayarajan
4. Prabhu .. Respondents/Plaintiffs

PRAYER: Petition filed under Section 115 of Civil Procedure Code, to allow the Civil Revision petition to set aside the fair order passed in the E.P.No.181 of 2013 in O.S.No.34 of 2005 on the file of the learned Additional District Judge, Dindigul, dated 21.09.2016.

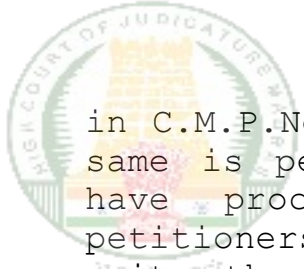
For Petitioners : Mr.N.Murugesan

O R D E R

Challenging the order passed by the learned Additional District Judge, Dindigul, in E.P.No.181 of 2013 in O.S.No.34 of 2005, dated 21.09.2016, the present Civil Revision petition has been filed.

2. According to the petitioners, the respondent Balakrishnan (died)/plaintiff filed a suit in O.S.No.34 of 2005 for specific performance, before the District Court, Dindigul. The aforesaid suit was decreed on 31.03.2008. Against which, the Revision petitioners preferred an appeal with a petition to condone the delay, before this Court. The respondent filed an Execution petition in E.P.No.181 of 2013. The Court below has erroneously allowed the present petition. The Revision petitioners have not obtained any interim order from this Court. Aggrieved over the order passed by the Court below, the present Civil Revision petition has been filed.

3. The learned counsel for the petitioners would submit that the Revision petitioners filed an appeal against the Judgment and Decree in the aforesaid suit with a petition to condone the delay



in C.M.P.No.9238 to 9240 of 2016 in ASSR No.23383 of 2013 and the same is pending before this Court. Now the respondents herein have proceeded with the Execution petition. The Revision petitioners have put to hardship and therefore, pending the appeal suit, the said order passed by the Court below in the present petition is unsustainable.

4.The contention of the Revision petitioners cannot be entertained at this stage. The Revision petitioners filed an Appeal Suit with condone delay petition and the same was numbered in the year 2013. Therefore, the present Civil Revision petition filed by the Revision petitioners cannot be entertained by this Court.

5. It is open for the Revision petitioners to get an appropriate remedy in the appeal, which is pending before this Court. Therefore, the Civil Revision petition fails and accordingly the same is disposed of with a direction to the Revision petitioner to get appropriate remedy in the appeal. No order as to costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

pmu

To
The Additional District Judge,
Dindigul.

+1cc to Mr.N.Murugesan Advocate Sr.No. 67965

JAM/14.12.16/PV/2p-3c

ORDER MADE IN

C.R.P. (MD) No.2279 of 2016
and
C.M.P. (MD) No.10497 of 2016
11.11.2016