



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.2633 of 2016 (PD)

and

C.M.P (MD) No.12379 of 2016

1.Karuthammal

2.Muthu @ Muthulakshmi

... Petitioners/3rd

parties/3rd parties

Vs.

1.N.K.N.K.R.tharma Trust

Through its Managing Trustee,

Babulal @ N.M.Venkatachalapathi

... 1st respondent/

Petitioner/Plaintiff

2.N.S.Amarnath

3.N.R.Jawaharlal

4.N.R.Bhuvaneshwaran

5.N.R.Sethuraman

6.N.R.Muthukrishnaiyer

7.N.M.Krishnamoorthy @ Kannan

Karuppa Thevar (died)

8.R.Kasammal

9.R.Thangapandi

10.R.sonai Muthiah

11.R.Muthu pandiammal

12.K.Paunraj

13.K.Ukkirapandi

... 2 to 13 Respondents/

Respondents 1 to 11/

defendants 1 to 14

PRAYER: Civil Revision Petition is filed, under Section 115 of Civil Procedure Code, to call for the records relating to the order passed in E.P.No.171/2008 in O.S.No.46/1998 dated 24.10.2016 on the file of 1st Addl.Sub Court Madurai and set aside the same and consequently direct the Executing Court to disposal of the unnumbered in E.A.No /2016 in E.P.No.171/2008 in O.S.No.46/1998 on the file of the I Additional Sub Court, Madurai.

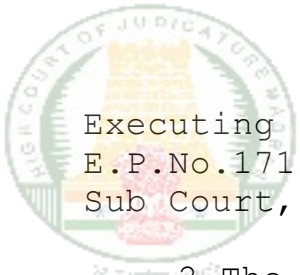
For Petitioner : Mr.C.Jeganathan

For R1 : Mr. T.R.Subramanian

For R12 & 13 : Mr.R.Arjuna Rajan

ORDER

The petitioner has filed this Civil Revision Petition to call for the records relating to the order passed in E.P.No.171/2008 in O.S.No.46/1998, dated 24.10.2016, by the I Additional Sub Court, Madurai and set aside the same and consequently, direct the



Executing Court to dispose of the unnumbered in E.A.No /2016 in E.P.No.171/2008 in O.S.No.46/1998 on the file of the I Additional Sub Court, Madurai.

2.The first respondent filed a suit in O.S.No.46 of 1998, for declaration and injunction before the I Additional Sub Court, Madurai, and the said suit was decreed on 30.04.2008. The first respondent filed E.P.No.171 of 2008 for execution of decree, dated 30.04.2008. The petitioner filed an application under Order 21 Rule 97 of C.P.C. Without numbering the said application, the Execution Court ordered delivery and at that time, the petitioner filed another E.A., to defer the batta paid by the respondent/decreed holder till the disposal of the application filed under Order 21 Rule 97 of C.P.C., and filed the present Civil Revision Petition for the above stated relief.

3.The grievance of the petitioner is that while E.A., filed by him is pending, the learned Judge erred in ordering the E.P., without deciding the said application.

4.The learned counsel for the first respondent/plaintiff submitted that he has no objection for allowing the Civil Revision Petition and it would be suffice if a direction is issued to learned Judge to number the E.A., filed by the petitioner and decide the E.A., before the E.P., on merits.

5.In view of the said grievance and recording the no objection,without deciding the Civil Revision Petition on merits, I Additional Sub Judge, Madurai, is directed to number the E.A., filed by the petitioner, if it is otherwise in order and decide the E.A., on merits, before deciding the E.P.

6.With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar/

To
The 1st Additional Sub Court,
Madurai.

+1 cc to M/S. T.R.Subramanian, Advocate SR No.83105

am

<https://hcmrscs.courts.gov.in/hcmrscs> 01.2017/2P-3C

C.R.P (MD) No.2633 of 2016 (NPD)
23.12.2016