

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 16.03.2016****CORAM:****THE HONOURABLE MS.JUSTICE V.M.VELUMANI****C.R.P (MD) No.550 of 2016(PD)**

P.Dhanalakshmi .. Petitioner/Appellant/Third party

Vs.

1. P.Isakimuthu .. Respondent/Respondent/Plaintiff

2. K.Isakimuthu .. Respondent/Respondent/Defendant

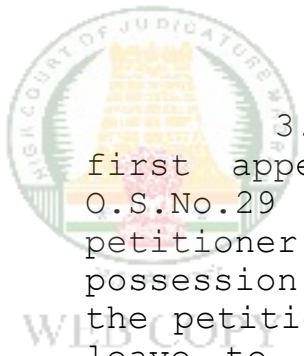
Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, seeking for direction to the learned Sub Court, Sivakasi to dispose the petitioner's unnumbered I.A.No.----- of 2015 in A.S.No.--- of 2014 petition for grant leave against the O.S.No.29 of 2007 on the file of the District Munsif Court, Sattur, dated 17.09.2009.

For Petitioner : Mr.J.John

ORDER

This memorandum of Civil Revision Petition has been filed for direction to the learned Sub Court, Sivakasi to dispose the petitioner's unnumbered I.A.No. of 2015 in A.S.No. of 2014 petition for grant leave against the O.S.No.29 of 2007 on the file of the District Munsif Court, Sattur, dated 17.09.2009.

2. The petitioner is the third party in the suit in O.S.No.29 of 2007. The first respondent is the plaintiff. The second respondent is the defendant. The first respondent filed the Suit for permanent injunction not to alienate the suit schedule property. The said suit was decreed by judgment and decree dated 17.09.2009. According to the petitioner, the husband of the petitioner is the lawful owner of the first item of the Suit schedule property. In the year 2003, her husband D.Purushothaman had executed a settlement deed in favour of the petitioner. Without impleading the petitioner, the first respondent had filed Suit against the second respondent/defendant. Therefore being aggrieved by the judgment and decree in the Suit in O.S.No.29 of 2007, the petitioner has filed the first appeal along with application seeking leave of the Court to file an appeal and the same was returned on the ground of maintainability stating that how the appeal is maintainable without being a party in the suit in O.S.No.29 of 2007.



3. The learned counsel for the petitioner represented the first appeal stating that the judgment and decree passed in O.S.No.29 of 2007 is against the interest of the petitioner, the petitioner is absolute owner of the suit property and she is in possession and enjoyment of the property. In the circumstances, the petitioner has filed the first appeal along with petition for leave to file the first appeal. But, the said application was returned on the ground of maintainability. Against the order of return, the present Civil Revision Petition is filed. According to the petitioner, she is the owner of the property and she is in possession and enjoyment of the same. The judgment and decree had been obtained behind her back in respect of her property.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. From the records, it is seen that the case of the petitioner is that she is the owner of the property and the judgment passed is against the interest of the petitioner. In the circumstances, the learned Sub Judge, Sivakasi, is directed to number the application and decide the matter on merits in accordance with law, after giving opportunity to the petitioner. This Court is not deciding the claim of the petitioner that she is the owner of the property. It is for the learned Sub Judge, Sivakasi to decide this issue.

6. With the above directions this Civil Revision Petition is allowed. No Costs.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Sivakasi.

2. The District Munsif, Sattur.

+one cc to M/s.J.John, Advocate in SR.No.14776

PJL

CSL/SKS-RR/11.04.2016 : 2P/4C

C.R.P (MD) No.550 of 2016 (PD)