

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 22.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**C.R.P(PD) (MD)No.1180 of 2017**

Subuulakshmi Ammal

: Petitioner/Plaintiff

vs.

1.P.Mariappan
Chinnappan (died)
2.Rajammal
3.Selvakumar
Pethakkammal (died)
4.Palsamy
5.Lachumi Ammal
6.Perumalakkal
7.Maheswari

1st Respondent/Respondent 9th
2nd Respondent/Respondent 2nd
3rd & 4th Respondent/Respondent 3 & 4

: Respondents 5-7/Respondent 6-8

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to dispose the E.A.No.14 of 2012 and E.P.No.12 of 2009 in O.S.No.15 of 1979 on the file the District Munsif Court, Vilathikkulam within the time stipulated by this Court.

For Petitioner

: Mr.R.Devaraj

ORDER

The suit filed in the year 1979 was taken on the file of the District Munisf Court, Kovilpatti in O.S.No.15 of 1979 and the decree was passed on 15.12.1980. This matter has gone upto second appeal and confirmed in S.A.No.2031 of 1983 dated 22.01.1998. Thereafter, the decree holder has filed an execution petition and had taken delivery of six shops, except one shop which is now the subject matter of E.P.No.12 of 2009.

2.The 1st respondent herein, was brought on record as legal heir of Pethakkammal who was brought on record during the pendency of second appeal as legal heir of Chinnappan, the first defendant in the suit. In the suit, 7th respondent has filed an application in the year 2012 under Section 47 of CPC which has been taken on the file of Execution Court in E.A.No.14 of 2012.

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3.The learned counsel for the revision petitioner would



submit that even after a lapse of five years, the Execution Court is not able to dispose of the E.A.No.14 of 2012 filed under Section 47 of CPC which is per se not maintainable and the counter has been filed by the revision petitioner long back. The reason for pending of E.A.No.14 of 2012 is squarely due to attitude of the respondents who are successfully protracting the proceedings endlessly. The 'B' diary extract has been read over to this Court which reveals that on almost all occasions, the respondent has taken adjournment reporting not ready for argument.

4. Whenever, the learned counsel for the respondents sought time, the same has been acceded by the Execution Court. No doubt adequate opportunity has to be given to the parties, but not for five years in an execution application filed under Section 47 of CPC. The execution Court has adjourned the case numerous time. Merely for the sake of asking.

5. Here is a case where the decree has been passed as early as on 15.12.1980. The execution application under Section 47 of CPC filed by the brother of the contesting defendant after 37 years from the date of decree is kept pending for five years for adjudication. Therefore, the Execution Court is hereby, directed to dispose of the E.A.No.14 of 2012 and pass final order in E.P.No.12 of 2009 in O.S.No.15 of 1979 within a period of 45 days from 22.06.2017 (today).

5. This Civil Revision Petition is disposed of, accordingly. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The District Munsif Court,
Vilathikkulam.

+1cc to M/S. R.DEVARAJ, Advocate, SR.No.61569.

C.R.P (PD) (MD) No.1180 of 2017
22.06.2017

mrn/gns

SDS/SV:MMS/SAR 2/22.06.2017/2P/3C

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