



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRANC.R.P(PD) (MD)No.1474 of 2017andC.M.P.(MD)No.7728 of 2017

S.Raju

...Petitioner/Petitioner/
Obstructor/WIC

-vs-

1. M.Subramanian (Deceased)
2. S.Vijayalakshmi
3. S.Mariammal
4. S.Nivetha

... Respondents 1 to 4/
Respondents/Petitioners

5. Ramuthai (Deceased)
6. K.Deenadayalan

... Respondents 5 and 6/
Respondents/ Respondents

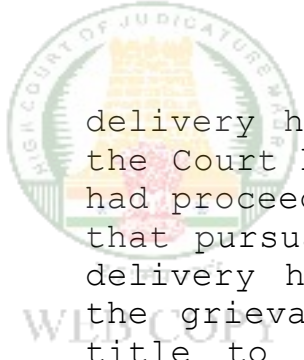
PRAYER: Civil Revision Petition is filed, Under Article 227 of the Constitution of India, directing the learned District Munsif Court, Palani to hear and dispose of the E.A.No.102 of 2017 in E.P.No.276 of 2007 in RCOP 14/1956 filed under Order 21 Rule 97 of C.P.C., before effecting delivery of possession ordered in E.P.No.276 of 2007 posted for delivery of possession 21.08.2017.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy
For Respondents 2 to 4 : Mr.M.P.Senthil
For Respondent No.6 : Mr.S.Karthik

ORDER

This Civil Revision Petition has been laid for issuance of direction to the Court below to hear and dispose of the E.A.No.102 of 2017 in E.P.No.276 of 2007 filed under Order 21 Rule 97 of C.P.C., before effecting delivery of possession ordered in E.P.No.276 of 2007 posted for delivery of possession on 21.08.2017.

2.It is found that the petitioner has preferred an application under Order 21 Rule 97 C.P.C and Section 151 of C.P.C seeking title to the property in dispute on the basis of certain documents. It is found that the other side resisted the application preferred by the petitioner on various contentions. Inasmuch as the petition has come to be laid at the stage when



delivery has to be ordered by the Court below, it is found that the Court below without considering the merits of the application, had proceeded with the order of delivery and now it is represented that pursuant to the order of delivery passed by the Court below, delivery has been given to the opponent party on 24.08.2017 and the grievance of the petitioner is that inasmuch as, he claims title to the property in dispute under various documents, the Court below should have considered the merits of his application and disposed of the same in accordance with law and only thereafter, should have effected the order of delivery. However, it is now represented that inasmuch as pursuant to the order of delivery, possession has been handed over to the opponent party, according to the petitioner, at least the Court below should be directed to dispose of this application on merits before recording the delivery.

3.It is represented by the learned counsel for the respondent that inasmuch as delivery has been effected, no purpose would be served by keeping the application laid further and therefore, this Court should dispose the application preferred by the petitioner as infructuous.

4.However, considering the fact that the petitioner has laid the application claiming title to the property in dispute on the basis of certain title deeds, in my considered opinion, the petitioner should have been provided an opportunity to contest the same on merits and therefore, in such view of the matter, I am of the opinion that the Court below before recording the order of delivery, should proceed with the application laid by the petitioner and dispose of the same on merits and in accordance with law.

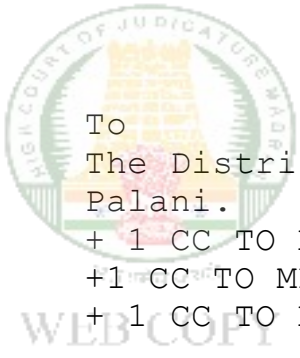
5.In the light of the above discussions, the Court below is directed to dispose of E.A.No.102 of 2017 in E.P.No.276 of 2007 laid by the petitioner on merits, after providing opportunity to all the parties concerned and thereafter, proceed with further proceedings in the execution proceedings. Accordingly, this Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar



To
The District Munsif,
Palani.

+ 1 CC TO MR.S.Karthik, ADVOCATE IN SR No.77810

+1 CC TO MR.M.Karthikeya Venkitachalapathy,ADVOCATE IN SR No.77865

+ 1 CC TO MR.M.P.Senthil, ADVOCATE IN SR No.78103

Myr/Smi

MK/MR KKR/SAR-1/25.09.2017/3P/5C

C.R.P (PD) (MD) No.1474 of 2017
11.09.2017