



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (PD) (MD) No.1785 of 2017

Mrs.Go.R.Subbulakshmi

... Petitioner/Plaintiff

vs.

1.G.Thangavelu
2.G.Vadivel Murugan
3.G.Shanmugam(died)
4.G.Subramanian
5.G.Balamurugan(died)
6.G.Thandapani
7.G.Murugan
8.T.Vignesh

... Respondents/Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India, praying to direct the Principal District Judge, Virudhunagar District at Srivilliputtur to expedite and to conclude the trial within a time stipulated in O.S.No.83 of 2013 on the file of Principal District Court, Virudhunagar District in Srivilliputtur.

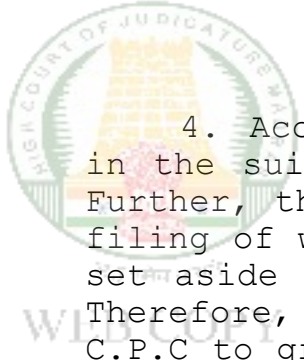
For Petitioners : Mr.K.Balaji

O R D E R

This Civil Revision Petition has been filed seeking a direction to the learned Principal District Judge, Virudhunagar District at Srivilliputtur to expedite and to conclude the trial in O.S.No.83 of 2013 within a stipulated time.

2.The learned counsel for the petitioner would aver among other things that the petitioner, as plaintiff, has filed a suit in O.S.No.83 of 2013 for partition and separate possession of 1/8 share in the suit schedule properties against the respondents along with I.A.No.466 of 2013 for ad-interim injunction to restrain the respondents/defendants from encumbering, alienating the suit schedule properties. The order of ad-interim injunction was passed and the same was extended periodically and on 02.08.2017, the interim injunction was made absolute.

3. The learned counsel for the petitioner would submit that in the above suit, issues were framed on 24.09.2014 and the case was posted on 11.08.2016.



4. According to the petitioner/plaintiff, the third defendant in the suit remained ex-parte from the first hearing of the suit. Further, the third defendant has failed to contest the suit by non-filing of written statement and he has not filed any application to set aside the ex-parte order. While so, the third defendant died. Therefore, an application was filed under Order XXII Rule 4(4) of C.P.C to grant exemption from bringing the legal heirs of the third defendant and the said application was allowed.

5. The petitioner would further submit that she was examined in chief on 30.08.2016 and 20 documents were marked and the second defendant was cross examined on 21.12.2016. Thereafter, the suit was periodically adjourned on various dates for cross-examination of the second defendant and on 10.02.2017, it was reported that they have no cross on the second defendant.

6. The petitioner would aver that at the defendants 2, 4 and 7 had opposed the order making the interim injunction absolute by stating that as the petitioner/plaintiff has not amended the said Interlocutory Application with regard to the death of the defendants 3 and 5. Therefore, the petitioner/plaintiff filed I.A.No.198 of 2017 to carry out amendment.

7. It is the case of the petitioner that the defendants, in one way or another, are trying to stall the proceedings of the lower court. The plaintiff is 64 years old and her husband is 72 years old. The defendants by filing one application or another are not allowing the lower court to proceed with the suit and therefore, she has come forward with this Civil Revision Petition for early disposal of the above suit.

8. Considering the fact that the petitioner and her husband are senior citizens and considering the fact that the suit is of the year 2013, this Court feels that ends of justice would be met by directing the Court below to dispose of the suit within a time frame. Without adverting to the merits of the case, a direction is issued to the learned Principal District Court, Virudhunagar District in Srivilliputtur., to dispose of O.S.No.83 of 2013 within a period of six months from the date of receipt of a copy of this order.

With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To

The Principal District Judge,
Virudhunagar District in Srivilliputtur.

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+ 1 CC TO Mr.K.BALAJI, ADVOCATE IN SR No. 83436

CM

TE/SV-MMS/SAR-II : 02/11/2017 : 3P/3C

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