



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.311 of 2017 and
CMP (MD) .No.1549 of 2017

Muthukrishnan

.. Petitioner

Vs.

1.Santhanamari
2.Marimuthu
3.Gurusamy
4.Vairamuthu
5.Karuppasamy

..Respondents

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to direct the learned Subordinate Judge, Sivakasi to receive the Counter filed by the Petitioner alongwith counter claim in unnumbered E.A.no.... 2017 in E.A.No.275 of 2016 under Order 21 Rule 97, 99, 6(A) and Section 479 and 151 of the Code of Civil Procedure in E.A.No.275 of 2016 in E.A.No.68 of 2010 in E.P.No.15 of 2008 in O.S.No.56 of 2006 and number the same and pass orders on merits in accordance with law.

For Petitioner : Mr. Ravi

ORDER

This Civil Revision Petition has been filed to direct the learned Subordinate Judge, Sivakasi to receive the counter claim in unnumbered E.A.no.... 2017 in E.A.No.275 of 2016 under Order 21 Rule 97, 99, 6(A) and Section 479 and 151 of the Code of Civil Procedure in E.A.No.275 of 2016 in E.A.No.68 of 2010 in E.P.No.15 of 2008 in O.S.No.56 of 2006 and number the same.

2. The petitioner is the third party to the E.P.No.15 of 2008 in O.S.No.56 of 2006. The second respondent obtained decree against third respondent and filed Execution Petition for implementing the decree. The sale deed has been executed by the third respondent / defendant in favour of the second respondent, plaintiff. The first respondent, third party filed E.A.No.275 of 2016 claiming 1/5th share in the suit property and therefore, the application is pending, the petitioner filed present unnumbered application in E.A.SR.No. Of 2016 in the said E.A filed by the



first respondent, making the counter claim that entire decree dated 08.01.2007, passed in O.S.No.56 of 2006 is not executable and the same is null and void. The learned Judge has returned the said application.

3. Against the said return, the present Civil Revision Petition has been filed.

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. From the materials on record it is seen that petitioner is making counter claim in E.A.No.275 of 2016 filed by the first respondent/ third party. The first respondent has filed said E.A claiming her 1/5th share in the suit property and claims that decree is not executable in respect of her 1/5th share. In the said Execution Application, the petitioner cannot make any counter claim to the effect that entire decree dated, 08.01.2007 is not acceptable. The claim of the petitioner is devoid of merits and accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

The Subordinate Judge, Sivakasi

+One cc to M/s.Polax Legal Solutions, Advocate, SR.No.9064

trp

RL/3C/2P/RR/SAR3/14.3.2017

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