



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM :

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRANC.R.P.(MD).No.754 of 2017

C.Rethinaselvam

...Petitioner/Petitioner/Proposed
respondent/3rd party

Vs.

Muthu Irulandi Thevar (died)
Bagavathi Ammal (died)

...Petitioners/Plaintiffs 1& 2

1.Velchamy

...1st Respondent/3rd Respondent/
Petitioner/3rd Plaintiff

Thangam (died)

2.Padmavathi Nachiyar

Rathnasouthu Rani Naichiar (died)

3.Mammalla Mahendran

4.Parthiban

5.Vanathi Devi

...Respondents 2to5/Respondents/
Respondents/ Defendants

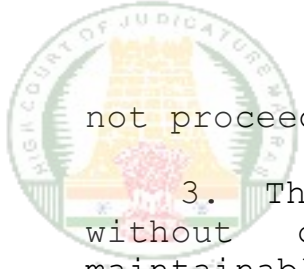
Prayer : Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records and consequently direct the Trial Court to number the Unnumbered E.A. In E.P.No.3 of 2009 in O.S.No.74 of 1985 on the file of the District Munsif Court, Muthukulathur.

For Petitioner : Mr.B.Senthilkumar

ORDER

The Civil Revision Petition has been filed to call for the records and consequently to direct the Trial Court to number the Unnumbered E.A. In E.P.No.3 of 2009 in O.S.No.74 of 1985 on the file of the District Munsif Court, Muthukulathur.

2. The suit is of the year 1985, wherein decree was passed for specific performance and Execution Petition is pending since 2009. The revision petitioner herein claiming himself the co-owner of the suit property, he has presented a petition under Order 21
service 58 of 1908 claiming that is going to file a suit for declaring the decree which is the subject matter of the Execution Petition is null and void and for the said reason, the Execution Court should



not proceed with the Execution Petition till he files the suit.

3. The Court below has returned the papers questioning without challenging the decree how the application is maintainable, when the Execution Court has already executed the sale deed pursuant to the decree passed in the specific performance suit.

4. The learned counsel for the revision petitioner submitted that they are contemplating to file a suit to declaring the decree which is the subject matter of the Execution Petition as null and void, till then, the Execution Court should not proceed with the Execution Petition. From the docket order it is clear that already the Trial Court has executed sale deed pursuant to the decree passed in the specific performance suit, and therefore the prayer sought has become infructuous. Further more, as pointed out by the Trial Court and as stated in the application by the revision petitioner himself the remedy open to him is to challenge the decree which he claims to have been passed behind his back, without proper appreciation of the title over the suit property which admittedly not so for resorted.

5. This Court finds no merit in the revision petition. Hence, the Civil Revision Petition is dismissed. No Costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Muthukulathur.

SM/CP
JS/SV/2.05.2017/2P-2C

C.R.P. (MD) .No.754 of 2017
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