



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2017

CORAM :

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

**CRP (PD) (MD) No.2570 of 2016 and
CRP (NPD) (MD) No.511 of 2017 and
CMP. (MD) No.12100 of 2016**

CRP (PD) (MD) No.2570 of 2016

- 1) K.Irulappan
- 2) K.Sekar
- 3) R.Mayandi
- 4) P.Kulandaisamy
- 5) Sangaiah @ Murugesan
- 6) Selvakumar
- 7) K.Rathinam
- 8) P.Mahalingam

... Petitioners / 3rd Party

vs.

- 1) Ammavasai
- 2) Vasanth
- 3) Valarmathi
- 4) Minor Dinesh Kumar
- 5) Minor Suganya
- 6) Minor Sasikumar
- 7) Minor Jannith Kumar

... Respondents 1 to 7 / Petitioners /
Plaintiffs

(Minor respondents 5 to 8 are represented through
their mother and guardian, 3rd respondent Smt.Valarmathi)

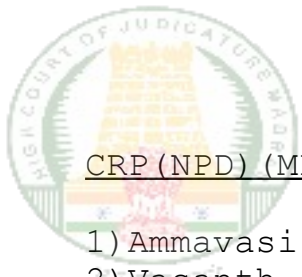
- 8) Pandi
- 9) Soundara Pandian

... 8th Respondent / 2nd Respondent /
2nd Defendant
... 9th Respondent / 3rd Respondent /
2nd Plaintiff

Prayer:- Civil Revision Petition filed the Under Article 227
Constitution of India, against the rejection of memo dated
07.11.2016 filed in E.A.No.87 of 2006 in E.P.No.46 of 2004 in
O.S.No.678 of 1992 on the file of Additional District Munsif
Court, Madurai.

For Petitioners
For R1 & R2
For R3, R4 to R7
For R8

: Mr.R.Murali
: Mr.R.Rajaraman
: No appearance
: Mr.M.Senthilkumar



CRP (NPD) (MD) No.511 of 2017

- 1) Ammavasi
- 2) Vasanth

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.. Petitioners / Respondents 1 &3
Petitioners 1&3/Plaintiffs 1 &4

vs.

- 1) K. Irulappan
- 2) Harikesavan
- 3) K. Sekar
- 4) R. Mayandi
- 5) R. Arumugam
- 6) P. Kulandaisamy
- 7) Sangaiah @ Murugesan
- 8) Selvakumar
- 9) K. Rathinam
- 10) P. Mahalingam

... Respondents 1 to 10/
Petitioners 1 to 10/ 3rd Party

Ravichandran (died)

- 11) Valarmathi
- 12) Minor Dinesh Kumar
- 13) Minor Sukanya
- 14) Minor Sasikumar
- 15) Minor Zenith Kumar

(Minor respondents 12 to 15 are represented through
their mother and guardian, 11th respondent Smt. Valarmathy)
RR-11 To 15 are LRs of deceased Ravichandran

... Respondents 11 to 15/
Respondents 4 to 8/ Petitioners 4 to 8

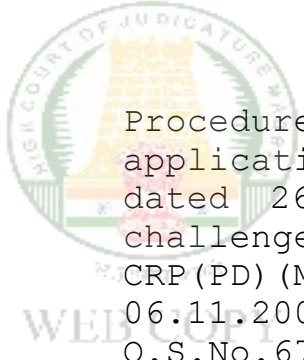
Prayer:- Civil Revision Petition filed the Under Article 227
Constitution of India, against the Docket order passed in
E.A.No.87 of 2006 in E.P.No.46 of 2004 in O.S.No.678 of 1992 dated
13.07.2015 on the file of Additional District Munsif Court,
Madurai Town.

For Petitioners : Mr.R.Rajaraman

COMMON ORDER

Both the Civil Revision Petitions arising out of the orders
passed by the Execution Court, pursuant to the direction passed by
this Court in the earlier revision petitions CRP(PD)(MD)
No.862/2009 and CRP(NPD)(MD)No.1840/2014. In the earlier round of
litigation, this Court has passed a common order dated 17.04.2015
as under:-

<https://hcservices.ecourts.gov.in/hcservices/>
The petitioners in CRP(PD)(MD)No.862 of 2009 filed an
application in E.A.No.87 of 2006 in E.P.No.46 of 2004 in
O.S.No.678 of 1992, under Section 47 of the Code of Civil



Procedure, to determine the questions raised by them. The application was dismissed by the learned Trial Judge, by order dated 26.09.2008. The order, dated 26.09.2008, is under challenge in CRP(PD)(MD)No.862 of 2009. During the currency of CRP(PD)(MD)No.862 of 2009, challenging the order, dated 06.11.2009, in E.A.No.252 of 2009 in E.P.No.46 of 2004 in O.S.No.678 of 1992, passed by the learned Trial Judge, the plaintiffs filed CRP(NPD)(MD)No.1840 of 2014.

2.The learned counsel for the petitioners in the respective civil revision petitions jointly submitted that the parties have settled the matter. In view of the subsequent event, culminating in settling the matter, the order dated 26.09.2008 in E.A.No.252 of 2009 in E.P.No.46 of 2004 in O.S.No.678 of 1992, are set aside and the matter is remanded to the Trial Court for the purpose of enabling the parties to file settlement memo.

3.The civil revision petitions are disposed of in view of the subsequent settlement between the parties. Before passing orders on merits or by way of settlement, the learned Trial Judge should see that notice is issued to all the parties. No costs. Consequently, connected miscellaneous petitions are closed.''

2.Pursuant to the said direction, when the matter was taken up by the Trial Court, the revision petitioners in CRP(PD)(MD)No.862/2009 filed a Memo to record the deletion of Item No.2 of the schedule in E.P.No.46 of 2004. The said Memo was rejected. Hence, CRP(PD)(MD)No.2570 of 2016 was filed and this Court has granted interim stay of further proceedings in E.P.No.46 of 2004. Meanwhile, the revision petitioners in CRP(NPD)(MD)No.1840/2014 have come to know that the Execution Court has allowed E.A.No.87/06 as prayed for without notice to the parties concerned as directed by this Court in CRP(PD)(MD)No.862/2009 and CRP(NPD)(MD)No.1840/2014 dated 17.04.2015. Since E.A.No.87/06 was allowed without affording an opportunity, CRP(NPD)(MD)No.511 of 2017 is filed under Article 227 of the Constitution.

3.This Court after hearing the counsel appearing for respective parties, finds that the order passed in E.A.No.87/06 dated 13.07.2015, and the order dated 07.11.2016, rejecting the Memo do not reflect the whole facts of the case and very cryptic. On the face of it, this Court finds that the court below has not considered E.A.No.87/06 in the manner in which this Court directed the Execution Court to dispose of.

4.Under these circumstances, this Court is of the opinion that the Trial Court should pass an order in E.A.No.87/06, after causing notice to all the parties concerned and if the parties are unable to settle the disputes, appreciate the compromise properly in accordance with law and record the same. If no compromise is arrived at, the Court shall give an opportunity to the concerned



parties to put forth their respective case and decide the matter on merits. Therefore, status-quo ante as on 17.04.2015 is restored. Any observation of the Court subsequent to this date namely, 17.04.2015 including this order shall not prejudice any of the parties concerned.

5. With the above direction, both the Civil Revision Petitions are disposed of. No costs. The Execution Court is directed to dispose of E.A.No.87/06 as expeditiously as possible. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To:

The Additional District Munsif Court,
Madurai.

+1 CC to M/s.R.RAJARAMAN, Advocate, SR No. 14792

+1 CC to M/s.M.SENTHILKUMAR, Advocate, SR No. 14937

NBI/PSD

PSM/SKN-RSK/23.03.2017/4P/4C

CRP (MD) No.2570 of 2016 (PD) &
CRP (MD) No.511 of 2017 (NPD)
15.03.2017