



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.09.2018
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.2063 of 2018 and
C.M.P. (MD) No.9145 of 2018

WEB COPY

1. Loy Rabooni
2. Sobitha Raj
3. Suraj Emmanuel
4. Laila Kumari
5. Premkumar
6. Rajkumar

... Petitioners/Petitioners 2 to 7/
Respondents 10,11,13 to 16

Vs.

Chellammal (died)

1. K.M.Robert Samraj
2. K.M.Selvin Lal
3. K.M.Vijayakumar
4. M.C.Joylet Dawson
5. K.M.Jayachandra
6. Emmanuel J.Dawson
7. Binny Dawson
8. Binita Caroline
9. Gabriel
10. Hariss
11. Kadaksham
12. M.B.Sam
13. Thiyaphilose
14. J.H.Thompson
15. Robertson Rajappa
16. Justin
17. Vinokumar
18. T.Harris Jebakumar
19. T.Latha
20. T.Sutha
21. Deva Beula
22. Subina
23. Femina Rose
24. Sharmila Rose
25. Jenisha Rose

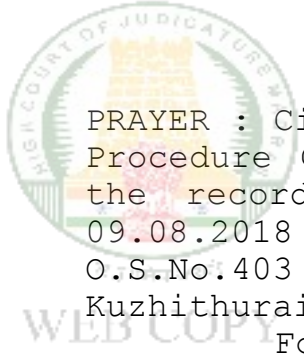
... Respondents 1 to 25/Respondents 2 to 26

26. Phanuvel ... 26th Respondent/1st Petitioner

(As respondents 1 to 5, 7 & 8 & 26

appeared in the Court below and

notice for others may be dispensed with)



PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to allow the Civil Revision petition and call for the records and set aside the fair and decreetal order dated 09.08.2018 passed in E.A.No.91 of 2018 in E.P.No.104 of 2011 in O.S.No.403 of 1961 on the file of the Principal District Munsif, Kuzhithurai.

For Petitioners : Mr.T.S.R.Venkataramana

ORDER

O.S.No.403 of 1961 on the file of the District Munsif Court, Kuzhithurai, was filed by one T.Chellammal, against one Gabriel and three others. It was a suit for redemption of mortgage. Preliminary decree was passed on 01.12.1973. Final decree was passed on 12.10.1995. The first appeals as well as the second appeals questioning the final decree were dismissed. E.P.No.104 of 2011 came to be filed following the dismissal of the second appeals on 05.07.2011. In the said execution petition, E.A.No.91 of 2018 was filed for reopening the execution petition.

2. The applicants wanted to adduce further oral as well as documentary evidence in the execution petition. The executing Court by order 09.08.2018, dismissed the E.A. Questioning the same, this Civil Revision petition has been filed.

3. This Court wanted to know the purpose of reopening and the relevance of the documents sought to be received in evidence. The affidavit filed in support of the E.A. is not really clear on this subject. The matter is pending for more than 50 years, even though the suit has been decreed and the same has been confirmed right up to the High Court. The legal heirs of the original plaintiff could not redeem the property. As rightly observed by the executing Court, the decree is for redemption and in an E.P. to enforce such a decree, evidence is not at all necessary. It was already held by the High Court that the question of assessing the value of improvements will not arise in this case. On an earlier occasion, the respondents in the E.A. were permitted to adduce evidence and only thereafter the matter has been posted for orders. The documents that are now sought to be marked are the plaint, written statement and the copy of the Advocate Commissioner's Report and plan of a subsequent suit. Since these documents are subsequent to the decree passed in the present case, they cannot have bearing on this E.P. The Court below rightly dismissed the E.A. filed by the Revision petitioners. No case is made out for interference.

4. This Civil Revision petition stands dismissed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1. The Principal District Munsif,
Kuzhithurai.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1CC to Mr.T.S.R.Venkataramana, Advocate, SR.No.86284

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PMU

ES/SKN/RSK/SAR 2/03.12.2018/3P/5C