



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM:

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THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P (MD) No.1137 of 2016 (NPD)

1. Minor.Hariharan

2. Minor.Sudhakaran

Minor petitioners are represented
through their father by name
Ramachandran

.. Petitioner /
Petitioner/ 1st Defendant

Vs.

Kesavan,
rep. through his power agent
Srinivasan

... Respondent /
Respondent / Plaintiff

(cause title accepted, vide order dated 01.11.2010, made in M.P.
(MD).No.1 of 2010 in C.R.P.(MD).No.SR44731 of 2010.)

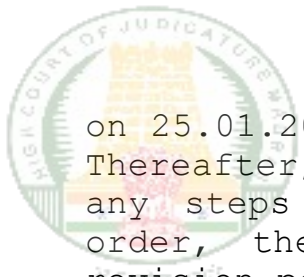
PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., praying to call for the records relating to the fair and decreetal order dated 25.01.2010 passed by the learned Additional District Munsif, Karaikudi in I.A.No.578 of 2009 in O.S.No.247 of 2007 and set aside the same.

For petitioners : Mr.S.Manikandan
For respondent : Mr.R.Ramadurai

ORDER

This civil revision petition has been filed by the revision petitioner / plaintiff challenging the order, dated 25.01.2010, passed in I.A.No.578 of 2009 in O.S.No.247 of 2007 by the learned Additional District Munsif, Karaikudi.

2.The revision petitioners are the legal heirs of the deceased 1st defendant. The respondent herein has filed the suit in O.S.No.247 of 2007 for permanent injunction against the mother of the revision petitioners / 1st defendant. An *ex parte* decree came to be passed on 12.03.2008. Subsequently, the mother of the revision petitioners /1st defendant had filed I.A.No.578 of 2009 seeking to condone the delay of 353 days in filing an application for setting aside the *ex parte* decree and the same was dismissed



on 25.01.2010 holding that there is no sufficient reason assigned. Thereafter, the mother of the revision petitioners did not take any steps and she died on 07.06.2010. Now, aggrieved by that order, the revision petitioners have filed the present civil revision petition.

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3. When the matter came up for hearing, it is represented by the learned counsel for the respondent that a personal decree has already been passed against the mother of the revision petitioners / contesting 1st defendant. The revision petitioners, who are claiming right over the suit property based on the Will executed by their mother, cannot maintain the present revision petition. If at all the revision petitioners are aggrieved, they have to file a separate suit. The learned counsel for the revision petitioners also fairly accepted the same.

4. In view of the above, this civil revision petition is dismissed. It is open to the revision petitioners to approach the appropriate forum in the manner known to law, if they advised so. No costs.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Munsif, Karaikudi.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1cc to Mr.S.Manikandan, Advocate Sr.No.51581

GCG
TE/SKN/RSK/SAR3/10.04.2018/2P/5C

order made in
C.R.P (MD) No.1137 of 2016 (PD)
27.02.2018