



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P. (MD) No.1279 of 2016

WEB COPY

C.Shanmugam

.. Petitioner / Petitioner/
1st Respondent/1st Defendant

vs.

V.R.Pitchaimani

.. Respondent / Respondent/
Petitioner/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed by the learned Principal Sub Judge, Madurai dated 08.12.2015 returning the unnumbered E.A.No.Nil of 2015 in E.P.No.172 of 2011 in O.S.No.173 of 2005 on the file of the Principal Sub Court, Madurai and to direct the learned Judge to take on file the application filed under Section 47 of CPC.

For Petitioner : Mr.C.Sundaravadivel
For Respondent : Mr.P.Sivasubramanian

ORDER

The first defendant in O.S.No.173 of 2005 on the file of the Principal Sub Court, Madurai is the revision petitioner herein. The suit is on mortgage. Both preliminary decree as well as the final decree came to be passed. Thereafter E.P.No.172 of 2011 was filed. In the said EP, the revision petitioner filed an EA for excluding the properties that did not belong to the mortgagor. The Court below was of the view that since the revision petitioner had remained exparte and since he should have raised his contentions in the main suit itself, the said application was returned.

2. This Court is of the view that the application filed by the revision petitioner can be numbered and disposed of on merits. In this view of the matter, the order impugned in the Civil Revision Petition is set aside and the Civil Revision Petition stands allowed. No Costs.

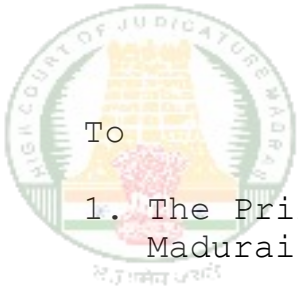
3. The Registry shall return the original EA bearing application No.25086 of 2015 for re-presentation before the executing Court.

Sd/-
Assistant Registrar(CO)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar(CS-IV)



To

1. The Principal Sub Judge,
Madurai.

2. The Section Officer, (2 copies)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

PJL

VB/SV/SAR4/25.10.2018/2P/4C

C.R.P. (MD) No.1279 of 2016
24.09.2018