



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.08.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.1448 of 2018
and
C.M.P. (MD) No.6283 of 2018

Dhanalakshmi

... Petitioner/Petitioner/
Plaintiff

Vs.

1. Ramasundaram
2. Ramasundara Kani
3. Shanthi
4. Geetha
5. Mehala

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 21.02.2018 passed in E.P.No.5 of 2017 in O.S.No.111 of 2010 on the file of the learned District Munsif, Sattankulam, by allowing this Civil Revision petition and to grant such other reliefs that this Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner	: M/s.P.Jessi Jeeva Priya
For R-5	: Mr.K.R.Laxman
For R-1	: Left.
For R-3	: Unclaimed.
For R-2 & R-4	: No appearance.

O R D E R

The Revision petitioner is the plaintiff in O.S.No.111 of 2010 on the file of the Court of the District Munsif, Sathankulam.

2. Preliminary Decree was passed in her favour. Subsequently, final decree was also passed in the year 2016. To execute the same, E.P.No.5 of 2017 came to be filed. The said application was dismissed by the Court below on the ground that the Revision petitioner had only filed a petition for partition and not for recovery of possession. This reason appears to be not only incorrect but also strange. Admittedly, the fifth respondent got the items allotted to the Revision petitioner by way of settlement from her father-in-law who is the first respondent herein. This settlement was executed in one year prior to the filing of the partition suit. It is not in dispute that the fifth respondent



got herself impleaded in the suit proceedings. Therefore, the Decree passed in favour of the Revision petitioner herein against the fifth respondent is binding on the fifth respondent. The Executing Court cannot go behind the Decree.

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3. In this view of the matter, the order passed by the learned District Munsif, Sathankulam, in E.P.No.5 of 2017 in O.S.No.111 of 2010, dated 21.02.2018, is set aside. The Civil Revision petition stands allowed, accordingly. The matter is remitted to the Executing Court. The Executing Court shall conclude the proceedings within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

/True Copy/

Sub Assistant Registrar(CS I)

To

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

1CC TO MR. K.R. LAXMAN, ADVOCATE SR NO.79824

pmu

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