



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.09.2018
CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(NPD) (MD).No.2339 of 2016
and
C.M.P.(MD)No.10790 of 2016

1.Muthusamy Udayar
2.Chinnadurai Udayar ... Revision Petitioners/Plaintiffs 2 & 3

Vs.

1.Rajakannu
2.Nagarajan ... Respondents 1 & 2/Defendants 1 & 2
3.Karuppiah Udayar ... 3rd Respondent/1st Plaintiff

PRAYER : Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.238 of 2013 in E.P.No.4 of 2009 in O.S.No.43 of 2003 dated 09.06.2016 on the file of the Learned District Munsif Court, Pudukkottai by allowing this Revision Petition.

For petitioners : Mr.A.Prasanna Rajadurai
For R1 and R2 : Mr.R.P.Ramachanthiran
For R3 : No appearance

ORDER

The second and third plaintiffs in O.S.No.43 of 2003 on the file of the District Munsif Court, Pudukkottai are the revision petitioners herein. It is a suit for bare injunction. The suit was decreed on 30.06.2003. The decree has become final. Contending that the injunction decree is being violated, E.P.No.4 of 2009 was filed. The E.P., was filed by plaintiffs 2 and 3 and I.A.No.238 of 2013 was filed, claiming that plaintiffs 2 and 3 have been empowered through a power of attorney by the first plaintiff. The respondent contended that the power said to have been given by the first plaintiff in favour of the other two plaintiffs is not genuine. The Court below dismissed the I.A., by order dated 09.06.2016. Questioning the correctness of the order this Civil Revision Petition has been filed.



3.The decree passed in the suit covers all the three plaintiffs. The claim of the plaintiffs is that they are in joint possession and enjoyment of the suit property. Therefore, whether the power of attorney given by the first plaintiff in favour of the second and third plaintiffs is genuine or not, definitely, the remaining other two plaintiffs / the revision petitioners herein can independently maintain the E.P.No.4 of 2009. The respondents 1 and 2 herein would not be entitled to question the maintainability of the E.P., on the ground that it has been filed only two out of three decree holders.

4.With this clarification, the order impugned in this Civil Revision Petition is set aside.

5.Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar(CS-)

To

The District Munsif,
Pudukottai.

+1. C.C. to M/S.NA.PALANIYANDI, Advocate SR.No. 84568
+1. C.C. to M/S.R.P.RAMACHANTHIRAN, Advocate SR.No. 85053

ORDER MADE IN
C.R.P. (NPD) (MD) .No.2339 of 2016
and
C.M.P. (MD) No.10790 of 2016
17.09.2018

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