



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) No.488 of 2016
and
C.M.P. (MD) No.2100 of 2016

1.S.Krishnasamy

2.L.Radhakrishnan

M.Muthu (died)

3.K.Veluchamy

.. Petitioners/Respondents

/Vs./

S.Arunachalam Pillai (Died)

1.A.Deivammal

2.V.Kanaga

3.A.Mariammal

4.J.Komu

.. Respondents/Appellants

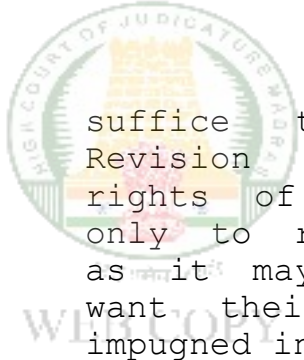
PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the memo filed by the respondents in A.S.No.4 of 2015 dated 03.02.2016 on the file of the II Additional District Judge, Tuticorin and set aside the same and allow the Civil Revision Petition.

For Petitioners : Mr.R.Devaraj

For Respondents : Mr.S.Parthasarathy

ORDER

The revision petitioners herein filed O.S.No.5 of 2001 on the file of the Sub Court, Kovilpatti, seeking the relief of specific performance. The suit was decreed on more than one occasion. Against the decree made in the suit, the defendants filed A.S.No.4 of 2015 before the learned II Additional District Judge, Tuticorin. In the appeal, a memo was filed by the defendants for depositing the amount of Rs.2,00,000/- received by the defendants. It was made clear in the said memo that it was without prejudice to the rights of the parties. The said memo was strongly objected to by the counsel for the plaintiffs/revision petitioners herein. But the Court below by an order, dated 03.02.2016, issued a challon subject to the objections by the respondents/plaintiffs. The correctness of the said order is questioned in this Civil Revision Petition.



suffice to say that the order impugned in the Civil Revision Petition does not in any manner take away the rights of the plaintiffs. In fact, a direction was given only to rest the bonafides of the defendants. Be that as it may, since the revision petitioners themselves do not want their money in question to be deposited, the order impugned in the Civil Revision Petition is set aside.

3. Accordingly, this Civil Revision Petition is allowed and the order impugned in this Civil Revision Petition is set aside. The defendants are at liberty to withdraw the said amount. Consequently, connected miscellaneous petition is closed. No costs.

Sd/

Assistant Registrar (Crl Side)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The II Additional District Judge, Tuticorin.

2. The Section Officer,

V.R. Section,

Madurai Bench of Madras High Court, Madurai. (2 COPIES)

Copy to:

The Subordinate Judge, Kovilpatti.

+1cc to Mr. K. DEVARAJ, Advocate, SR.No.80685

+1cc to Mr. S. PARTHASARATHY, Advocate, SR.No.80942

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KK/SV/SAR-3/16.10.2018/2P-7C