



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.1614 of 2018

and

C.M.P. (MD) .No.7126 of 2018

1.Saraswathi
2.Kavitha
3.Balamurugan
4.Sharmila
5.Priya

...Petitioners/Petitioners/
Respondents 14 to 18

Vs.

Lakshmi

...Respondent/Respondent/
Petitioner/Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the petition and order dated 26.06.2018 passed by the Sub-Court, Aruppukottai in unnumbered E.A.No... of 2018 in E.P.No.42 of 2014 in O.S.No.20 of 2004 on the file of the Sub-Court, Aruppukottai and to direct the Sub Court, Aruppukottai to number the said E.A.

For Petitioner: Mr.C.Suresh Kannan

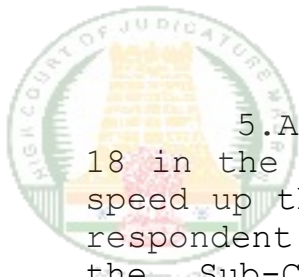
ORDER

This Civil Revision Petition is filed to set aside the petition and order, dated 26.06.2018 passed by the Sub-Court, Aruppukottai in unnumbered E.A.No... of 2018 in E.P.No.42 of 2014 in O.S.No.20 of 2004 and to direct the Sub-Court, Aruppukottai to number the said E.A.

2.The case of the petitioners is that the legal heirs of the first defendant viz., the respondents 14 to 18 has filed an application in unnumbered E.A.No... of 2018 in E.P.No.42 of 2014 under Section 47 and 151 of CPC, before the Executing Court viz., Sub-Court, Aruppukottai. The said application was returned by the learned Judge on 26.06.2018 stating that since the High Court had already ordered for speedy disposal of the main E.P.No.42 of 2014 within a particular period of time, this application cannot be entertained. Challenging the said order, the present civil revision petition has been filed.

3.Heard the learned counsel appearing for the petitioners and perused the materials available on record.

4.Since the petitioner has sought for a direction to number and dispose of the E.A., no notice is necessary to the respondent, which would cause no prejudice anyway to the respondent.



5. Admittedly, the petitioners are the judgment debtors 14 to 18 in the E.P.No.42 of 2014 and the High Court already directed to speed up the E.P.No.42 of 2014. While pending of the said E.P., the respondent who is the decree-holder, has filed an application before the Sub-Court, Aruppukottai, on 09.07.2018, which was also entertained by the said executing Court and numbered as E.A.No.78 of 2018. When the Executing Court has entertained the petition filed by the respondent/decreed holder, the learned Judge could not simply say that due to the order passed by the High Court for speedy disposal, the executing Court cannot entertain the E.A filed by the Petitioner. When the executing Court viz., the Sub-Court, Aruppukottai has entertained the application filed by the respondent in E.A.No.78 of 2018, the very order rejecting the petition filed by the Petitioner, dated 26.06.2018 is totally wrong. Therefore, I am inclined to pass the following order:

This Civil Revision Petition is disposed of and the learned Subordinate Judge, Aruppukottai is directed to number the application filed by the petitioners, within a period of one week from the date of receipt of a copy of this order. On numbering the said application, the trial Court is directed to dispose of the E.P.No.42 of 2014 within a period of four weeks thereafter, by giving notice to both the parties.

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Subordinate Judge,
Aruppukottai.

Copy To:

The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.C.Suresh Kannan, Advocate, SR.No.75973

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NS