



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.1960 of 2018

and

C.M.P. (MD) .No.8622 of 2018

Bhuvanachandran Nair

.. Petitioner/Petitioner/
2nd Respondent/2nd Defendant

Vs.

Santhakumari Amma (Died)

1.Gopakumar

.. 1st Respondent/2nd Respondent/
Petitioner/2nd Plaintiff.

2.Muraleedharan Nair

3.Surendran Nair

Radha Bai (Died)

4.Vasanthakumari Amma

5.Aron

6.Cicily

7.Mary Nirmalakumari

8.Mary Prasannakumar

9.Xavier Jose

10.Sivakumari

Velayudhan Nadar (Died)

11.Kamala Bai

12.Rajkumar

13.Moni

.. Respondents No.2 to 13/Respondents No.
3,4,6 to 12,14 to 16/
Respondents No.3,4,6 to 12, 14 to 16/
Defendants No.1,3,6 to 12, 14 to 16

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned Sub Judge, Kuzhithurai to number the unnumbered E.A.CF.No.157 of 2018 in E.P.No.29 of 2009 in O.S.No.42 of 1984 on the file of the Subordinate Judge, Kuzhithurai and dispose the same on merit.

For Petitioner: Mr.V.M.Balamohan Thambi

ORDER

The second defendant in O.S.No.42 of 1984 on the file of the Sub Court, Kuzhithurai, is the Revision Petitioner herein.

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

2.The Revision Petitioner had remained exparte in the suit.



To execute the decree, E.P.No.29 of 2009 was filed. The Revision petitioner remained exparte in the Execution proceedings also. On 10.08.2017 an order was passed in the Execution Petition. The Revision Petitioner did not question the same. Instead, he filed an E.A. under Section 47 of C.P.C. The Executing Court rightly declined to number the same and returned it. This is questioned in the present Civil Revision Petition.

3.Heard, the learned counsel for the revision petitioner who reiterated the grounds set out in the memorandum of grounds.

4.This Court is unable to agree with the said submissions. As rightly pointed out by the Court below in the absence of a challenge to the order dated 10.08.2018 made in the main Execution Petition to which the revision petitioner is very much a party, the present application under Section 47 of C.P.C will clearly not lie. There is no substance in this Civil Revision Petition.

5.Accordingly, this Civil Revision Petition is dismissed. The revision petitioner is certainly at liberty to question the impugned order passed in the Execution Petition.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS-II)

To

The Subordinate Judge,
Kuzhithurai.

+ 1 CC TO MR.V.M.BALAMOHAN THAMBI, ADVOCATE IN SR NO.84488

TM

BU/RSK/SAR-2 :23.10.2018 : 2P/3C

C.R.P. (PD) (MD) No.1960 of 2018
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