



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (NPD) (MD) No.1295 of 2009

and

M.P. (MD) Nos.1 and 2 of 2009

1.Vadamalai
2.Selvaraj
3.Sukkiran
4.Arumugam
5.Lakshmi
6.Rajayee

: Petitioners

Vs.

1.Murugan
2.Minor Saranya
 represented by her Father, 1st Respondent
3.Minor Rengasamy
 represented by his Father, 1st respondent
4.Kaveri
5.Dhanam

6.The Tamil Nadu Government
 represented through its District Collector,
 Collectorate, Karur.

7.The Revenue Divisional Officer,
 R.D.O.Office, Kulithalai, Karur District.

: Respondents

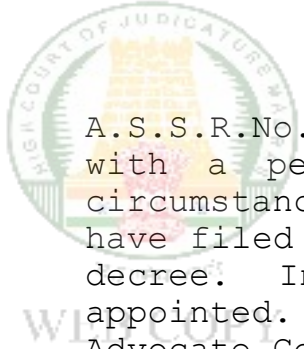
PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, 1908, to set aside the order made in I.A.No.282 of 2008 in O.S.No.40 of 2007 on the file of the Subordinate Court, Kulithalai, dated 08.07.2009.

For Petitioner : Mr.R.Sundar
For Respondents : No Appearance

ORDER

This Civil Revision Petition is directed against the order passed in I.A.No.282 of 2008 in O.S.No.40 of 2007, appointing the Advocate Commissioner in an application filed for passing of final decree.

2.It is not in dispute that O.S.No.40 of 2007 was filed by the respondents 1 to 3 for partition and separate possession of their 6/25 share in all the suit properties and for consequential reliefs. It is also admitted that on 20.03.2008, the suit was decreed. It is stated that the revision petitioners have filed an appeal in



A.S.S.R.No.4001 of 2009 on the file of the District Court, Karur, with a petition to condone the delay. It is in the said circumstances, the respondents, who are the plaintiffs in the suit, have filed an application in I.A.No.282 of 2008 for passing of final decree. In the said petition, an Advocate Commissioner was appointed. Challenging the order, dated 08.07.2009 appointing the Advocate Commissioner, the present petition has been filed.

3.The only ground on which, the present revision petition came to be filed, is that the appeal preferred by the revision petitioners is pending in A.S.S.R.No.4001 of 2009 and that the appeal is yet to be numbered, as the same was filed with the delay condoned petition. This Court is of the view that the present Civil Revision Petition is unnecessary and the same has been filed with an intention to drag on the proceedings.

4.Assuming that the appeal is filed with the delay, the petitioners can very well take steps by bringing the application to condone the delay and number the appeal and in case the appeal is numbered, the remedy is available to the petitioners to seek interim stay. Even in a case, where the appeal cannot be moved for various reasons, the revision petitioners have other remedy. In the said circumstances, this Court is of the view that the revision petition is devoid of any merits. This present revision petition is pending from 2009, which causes great prejudice to the other side.

5.As a result, the Civil Revision Petition is dismissed and the order passed in I.A.No.282 of 2008 in O.S.No.40 of 2007 on the file of the Subordinate Court, Kulithalai, dated 08.07.2009 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Subordinate Judge,
Kulithalai.

2. The District Collector,
Collectorate, Karur.

3. The Revenue Divisional Officer,
<https://hcservices.ecourts.gov.in/hcservices/>
R.D.O.Office, Kulithalai, Karur District.



+1 CC to Mr.R.SUNDAR, Advocate (SR-75291[F] dated 15/07/2019)

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cmr

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