

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 18.07.2019****CORAM****THE HONOURABLE MR. JUSTICE R.PONGIAPPAN****C.R.P (MD) No.1164 of 2019****WEB COPY**

S.B.Santhanakrishnan (Died)

1.S.B.Nandhagopalan

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

2.S.Meenakshi

3.S.Mohan Sundar Ganapathy

4.S.Dilip

... Petitioners 2 to 4

Petitioners 3 to 5/

LRs of the deceased 1st Plaintiff

Vs.

1.S.B.Vijayaragavan

2.Vishnu Priya @ Balaathirupurasundari

3.Y.Yogeswari @ Virambal

4.S.B.Govindarajan

5.S.Vasuki

... Respondents / Respondents/
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying for early disposal of Final Decree in I.A.No.243 of 2015 in O.S.No.402 of 2007 on the file of the Additional District Munsif Court, Madurai Town, within a time stipulated by this Court.

For petitioners : Mr.D.Nallathambi

ORDER

This Civil Revision Petition has been filed by the petitioners, and seek the relief to direct the learned Additional District Munsif, Madurai Town, to dispose I.A.No.243 of 2015 in O.S.No.402 of 2007 pending on his file in time framed manner.

2. In earlier, the father of the second to fourth petitioners and the first petitioner filed a suit as against the respondents herein and seeking the relief of dissolution of partnership firm M/s.Srinivasan Jewellers and for costs.

3. The said suit has been disposed by the learned Additional District Munsif, Madurai Town, on 28.02.2014, in which preliminary decree was granted in favour of the plaintiffs. Subsequent to that, the deceased first plaintiff-Santhanakrishnan and the first petitioner herein filed a final decree application under Order 20 Rule 15 C.P.C., in I.A.243 of 2015. Since the said application has not been disposed till date, the petitioners approached this Court for the relief referred above.



4. Now, on going through the extract of B-diary, it appears that the appeal preferred against the judgement and decree, dated 28.02.2014 was dismissed for default on 08.08.2016. Even after the dismissal of the appeal on 08.08.2016, the learned Additional District Munsif, Madurai Town, kept the final decree application by mentioning the reason that the records were not received from the First Appellate Court. In this regard, if it is true that the records are not sent to the trial Court, after the disposal of appeal, it is very difficult to the trial Court to dispose the final Decree in the above suit. Moreover, it is the duty of the First Appellate Court to send the records immediately after the disposal of the appeal. It is not fair on the part of the learned Principal Sub Judge, Madurai, to retain the case records till date, even after disposing the same in the year 2016 itself. Hence, it is also appropriate to give some direction to the learned Principal Sub Judge, Madurai, to send the case records pertaining to O.S.No.402 of 2017.

5. Accordingly, the learned Principal Sub Judge, Madurai is directed to send the case records pertaining to O.S.No.402 of 2017 (A.S.No.105 of 2015) to the file of Additional District Munsif, Madurai Town, within a period of one month from the date of receipt of a copy of this order. Further, since the suit has been filed in the year 2006, it is necessary to give a direction to the learned Additional District Munsif, Madurai Town, to dispose the final decree application within a stipulated time. Accordingly, the learned Additional District Munsif, Madurai Town, is directed to dispose the final decree application within a period of four months from the date of receiving the case records from the First Appellate Court.

6. With the above direction, this Civil Revision Petition is disposed of. No Costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Sub Judge,
Madurai.

2. The Additional District Munsif,
Madurai Town.

+1 CC to MR.D.NALLATHAMBI, Advocate (SR-76087[F] dated 18/07/2019)

ORDER MADE IN

C.R.P (MD) No.1164 of 2019

18.07.2019