



WEB COPY

C.R.P(MD)No.237 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved on : 16.09.2019

Orders Pronounced on : 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (MD)No.237 of 2018

and

C.M.P. (MD)Nos.986; 2813 & 3559 of 2018

1.C.Annathai

2.J.Vijaya Sathiya Selvi ...Petitioners / Respondents /
Petitioners

Vs.

J.Charles

... Respondent / Petitioner / Respondent

PRAYER: Civil Revision Petition is filed, under Under Article 227 of the Constitution of India, against the fair and decretal order dated 04.11.2017 passed in I.A.No.112 of 2014 in G.W.O.P.No.151 of 2013, on the file of the learned Principal District Judge, Thoothukudi.

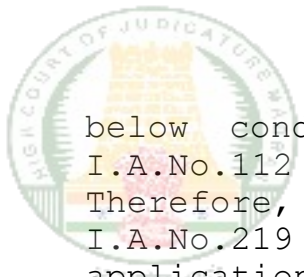
For Petitioners : Mr.M.Muthugeethayan

For Respondent : Mr.A.Saravanan

O R D E R

The present Civil Revision Petition has been filed against the fair and decretal order, dated 04.11.2017, passed in I.A.No.112 of 2014 in G.W.O.P.No.151 of 2013, on the file of the learned Principal District Judge, Thoothukudi. The said application was filed to set aside the exparte decree passed by the learned Principal District Judge, Thoothukudi, in G.W.O.P.No.151 of 2013, dated 07.08.2013.

2.It is seen that in G.W.O.P.No.151 of 2013 filed by the petitioners herein, an exparte order was passed on 07.08.2013. Thereafter, the respondent/husband, filed an application in I.A.No.112 of 2014 seeking to set aside the exparte order along with an application in I.A.No.111 of 2014 to condone the delay of 98 days in filing the application to set aside the exparte order. The Court



below condoned the delay and thereafter, the application in I.A.No.112 of 2014 came to be dismissed for default on 08.06.2015. Therefore, the respondent / husband filed an application in I.A.No.219 of 2015 seeking to restore I.A.No.112 of 2014. The said application was dismissed by the learned Principal District Judge, Thoothukudi. As against the dismissal of the said application, the respondent / husband filed C.M.A.(MD)No.109 of 2016 before this Court. This Court, by order dated 29.06.2017, set aside the said order of dismissal and directed the Court below to dispose of the said I.A.No.112 of 2014 on merits, as expeditiously as possible, in any case, not later than 22.09.2017. Consequently, I.A.No.219 of 2015 was allowed and I.A.No.112 of 2014 was restored. Thereafter, the Court below allowed the I.A.No.112 of 2014 on the ground that the petitioners herein / respondents got exparte decree in the main GWOP without taking proper steps for serving summons on the other side.

3.Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4.The learned counsel for the petitioners has strongly opposed for allowing the said I.A.No.112 of 2014, which is impugned in this Civil Revision Petition, stating that the minor child is 16 years old and admittedly she is living with the petitioners herein, who are the maternal grandmother and maternal aunt. He would further contend that the intention of the respondent / husband is only to take away the property, which was registered in the name of the deceased wife.

5.In reply, the learned counsel for the respondent / husband has given an undertaking that the respondent / husband will not alienate the immovable property of the deceased wife.

6.Considering the facts and circumstances of the case, this Court is of the view that the revision petitioners have not taken proper steps to serve summons to the respondent / husband. Under these circumstances, the Court below had rightly allowed the application in I.A.No.112 of 2014, in order to give an opportunity to the respondent / husband to put forth his case. Therefore, the impugned order does not warrant any interference at the hands of this Court. Hence, the present Civil Revision Petition is liable to be dismissed.

7.The undertaking given by the learned counsel for the respondent / husband that the respondent/husband will not alienate the immovable property, which is stand in the name of the deceased wife, is hereby recorded. Further, until the disposal of G.W.O.P.No.151 of 2013, the child would be under the care and custody of the revision petitioners herein.



8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar

To

The Principal District Judge, Thoothukudi.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-87455[F] dated 18/09/2019)

+1 CC to M/s.A.SARAVANAN, Advocate (SR-87272[F] dated 18/09/2019)

Order made in
C.R.P (MD) No.237 of 2018
18.09.2019

rj2

JM/18.09.2019/3P/4C