



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (MD) .No.2033 of 2019

and

C.M.P. (MD) .No.10435 of 2019

WEB COPY

J.Premaklatha

... Petitioner/Proposed Party/3rd Party

Vs.

1.V.Manoharan

...Respondent/Petitioner/Plaintiff

2.Solomon

... Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the unnumbered E.A.SR.No.3581/1 dated 27.08.2019 of 2019 in E.P.No.30/2012 in O.S.No.138 of 2007 on the file of the Principal District Munsif, Kuzhithurai, Kanyakumari District.

For Petitioner

: Mr.KA.Ramanathan

O R D E R

The Civil Revision Petition has been filed challenging the return of unnumbered E.A.SR.No.3581/1 by the learned Principal District Munsif, Kuzhithurai, dated 27.08.2019.

2. The learned Principal District Munsif, Kuzhithurai has returned the E.A.SR.No.3581/1, on 27.08.2019, stating that on 27.08.2019 delivery effected, list submitted and E.P. is terminated. Against the said order of return, the present civil revision petition has been filed.

3. The learned counsel appearing for the revision petitioner would submit that the revision petitioner is the owner of the suit schedule property. However, two suits viz., O.S.Nos.138 of 2007 and 191 of 2010 are pending. Though the revision petitioner is not a party in O.S.No.138 of 2007, he was impleaded in A.S.No.11 of 2018 as one of the parties, whereas in O.S.No.191 of 2010, the revision petitioner is also a party. But against the order passed in O.S.Nos.138 of 2007 and O.S.No.191 of 2010, appeal suits are pending. In the suit, without impleading the revision petitioner, the respondents herein filed E.P.No.30 of 2012 and obtained the order behind her back. Therefore, all these facts clearly narrated in the application in E.A.SR.No.3581/1 and without considering all these aspects, the Court below returned the E.A.SR.No.3581/1 of



2019 as delivery was effected and hence, it is not maintainable.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Admittedly, the appeal suits are pending against the revision petitioner and in the E.P. proceedings, the revision petitioner was not arrayed as one of the parties and it appears that without impleading the revision petitioner, the order was obtained. In such circumstances, without deciding the E.A.SR.No.3581/1 filed by the revision petitioner judicially, by virtue of the administrative order, they are not supposed to have returned. Therefore, this Court directs the learned Principal District Munsif, Kuzhithurai to number the application E.A.SR.No.3581/1 and decide the application judicially, after hearing both the parties.

6. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To
The Principal District Munsif,
Kuzhithurai, Kanyakumari District.

Copy to
The Section Officer
VR Section
Madurai Bench of Madras High Court, Madurai-2 copies

+1 CC to M/s.KA. RAAMAKRISHNAN, Advocate (SR-97654[F] dated 12/11/2019)

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