



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

C.R.P (MD)No.678 of 2009

and

M.P(MD)No.2 of 2009

1.Kamalam
2.Sivashanmugam

...Petitioners/Respondents No.9 & 10/
Defendants 10 & 11

Vs.

1.Kamatchi

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

2.Vellayammal

3.Vijayalakshmi

... Respondents 2 & 3/Respondents 1 & 2/
Plaintiffs

4. Rajathi

5.Chellammal @ Solaiyammal

6.Santhanam

7.Mariyayee @ Marakkal

8.Angammal @ Maniya

9.Govindammal

10.Boopathi

11.Ramesh

12.Selladurai

13.Narayanan

14.Marimuthu

15.Meenakshi

16.Nallathambi

17.Perumal

...Respondents/Respondents
3 to 8 & Respondents 11 to 18/
Defendants NO. 3 & 4,
Defendants 6 to 9 &
Defendants 12 to 19



18.Mariyayee @ Kilikungi

19.Muthumani

..Respondents/Respondents

19 & 20/third party in OS

Lrs of Defendant No.5

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PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C against the fair and decreetal order dated 21.04.2009 made in E.P. No.223 of 2007 in O.S.No.1258 of 1990 on the file of the District Munsif Court, Karur.

For Petitioner : Mr.R.Vijayakumar

For R1 : Mr.D.Nallathambi

R2 TO R19 are given up vide in EB

O R D E R

This Civil Revision Petition has been filed against the order directing delivery of one item of property which was not allotted in the final decree for partition suit in favour of the third respondent. The main ground, on which the order of delivery challenged, is that the property sought to be delivered was not allotted to the third respondent in the final decree.

2. I have heard Mr.R.Vijayakumar, learned counsel appearing for the petitioner and Mr.Nallathambi, learned counsel appearing for the contesting respondent.

3. The fact that the property which is sought to be delivered has been allotted to the third respondent in the final decree passed on 22.01.2003 is almost admitted by the third respondent by filing an application in I.A.No.32 of 2015 before the trial court seeking supplementary final decree.

4. It is also seen from the records that though the judgment in I.A.No.497 of 2001 allots the properties in the Commissioner's report to the third respondent. But the same has not been reflected in the decree.

5. In view of the above, the order of delivery passed by the Executing Court in E.P.No.223 of 2007 on 21.04.2009 will have to be necessarily set aside since it directs the delivery of property which was not allotted to the third respondent.

6. Accordingly, the order dated 21.04.2009 is set aside. The learned District Munsif, Karur, is directed to dispose of I.A.No.32 of 2015 within a period of three months from the date of receipt of a copy of this order.



7. In the result, this Civil Revision Petition is allowed.
No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

CM

To,
The District Munsif Court, Karur.

+1 CC to M/s.R.VIJAYAKUMAR, Advocate SR-6413[F] dated 14/02/2020

+1 CC to M/s.D.NALLATHAMBI, Advocate SR-6458[F] dated 14/02/2020

C.R.P (MD)No.678 of 2009

and

M.P(MD)No.2 of 2009

13.02.2020

DB(CO)

TR(12.03.2020)3P 4C