



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P.(NPD) (MD)No.18 of 2018

1.Chandragiri
2.Rajasekaran (Died)
3.S.Deepa
4.R.D.Adhithya (Minor) : Petitioners / Petitioners /
Claimants / Nil

(P3 and P4 were impleaded as legal representatives of the deceased 2nd respondent and

(P4 is represented by the 3rd petitioner, as Mother and Guardian vide order dated 07.07.2020 made in CMP(MD)Nos.10557 to 10559 of 2019)

.. Vs ..

Narayanan Pillai (died)
1.Sunnanda
2.Sunitha
3.Krishnan Nair

Pankajakshi Amma (died)
Hariharaj Nair (died)
Thaniel (died)
Padmajakshi Amma (died)
Muthusamy Nadar (died)
Muthian Nadar (died)
Kamalakshi Amma (died)

4.Ponnian Nadar

Lakshmanan Nadar (died)
Maluk Mohammed (died)
Kumaraswamy Nadar (died)

5.Sundaram Nadar
6.Kolappan Nadar
7.Sarojini Amma

Lekshmanan Nadar (died)
Appu Nadar (died)
Bahuleyan Nair (died)



8.Madhavankutty Nair

9.Ananandavalli Amma

Rajarajeswari Amma (died)

Gnanamma (died)

10.Nagamony Nadar

11.Selvarajan

12.Rajan

13.Santha Kumari

14.Ajitha

15.Viju

16.Dhas

17.Kanakaraj

18.Sreenivasan

19.Nagamony

Lekshmanan (died)

Appu (died)

20.Gopalakrishnan

21.Muthukumar

22.Narayanan

23.Subramanian

24.Arumugam

25.Chandrakumar

26.Saraswathy

Parameswaran (died)

27.Velayudhan

Manikandan (Died)

28.Sreedevan

29.Sundaramony

30.Rajan

31.Ummal Beevi

Shahul Hameed (died)

32.Chellaswamy

33.Thankaswamy

34.Ponnusamy Nadar

35.Retnaswamy

36.Murugan

Gopalakrishnan (died)

37.Sundaram

38.Sumathi

39.Mohan

40.Murali

41.Anand

42.Syamala Kumari

43.Anitha

44.Beena



45.Sindhu
46.Deepa
47.Viju
48.Jegan
49.Suja
50.Anand
51.Mohan
52.Murali
53.Indira
54.Sumathy
55.Chellathankam
56.Jayan
57.Viji
58.Suja
59.Kamasakumari
60.Sivaprasad
61.Vijakumar

: Respondents / Respondents / Respondents /
LRs of deceased defendants / Defendants Lrs of deceased defendants

PRAYER: Civil Revision Petition is filed under Section 115 of CPC, to set aside the order and decreetal order passed by the learned Principal District Munsif, Kuzhithurai in E.A.No.108 of 2011 in E.P.No.87 of 2007 in O.S.No.642 of 1969, dated 05.07.2017.

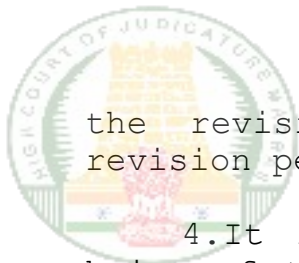
For Petitioners : Mr.V.M.Balamohan Thambi

ORDER

This Civil Revision Petition is directed against the order dismissing the petitioners' interlocutory application in E.A.No.108 of 2011 in E.P.No.87 of 2007 in O.S.No.642 of 1969 on the file of the Principal District Munsif Court, Kuzhithurai.

2.It is not in dispute that the revision petitioners are the legal heirs of 22nd defendant in the suit in O.S.No.642 of 1969. The said suit was filed for partition and for redemption of a mortgage. It is also admitted that a preliminary decree was passed on 13.10.1976 and the final decree was also passed on 17.01.1979. However, the execution petition was filed only on 05.10.2007, since another suit in O.S.No.390 of 1978 was pending and it was disposed of only on 28.02.2005. After the preliminary decree and final decree, the execution petition in E.P.No.87 of 2007 was filed by the plaintiffs for delivery.

3.In the execution petition, the revision petitioners filed the application in E.A.No.108 of 2011 in E.P.No.87 of 2007 in O.S.No.642 of 1969 under Order 21 Rule 97 and 98 CPC to declare and adjudicate the petitioners' title regarding an extent of 23 cents of land in S.No.2551 of Nalloor Village and 11¾ cents of land in S.No.2557 of Nalloor Village. The lower Court dismissed the petition filed by



the revision petitioners. Aggrieved by the same, the present revision petition is filed.

4.It is to be seen that the petitioners are only the legal heirs of the deceased 22nd defendant in the suit, against whom the suit for redemption was decreed. The petitioners, holding the derivative interest and got impleaded in the suit and in the execution petition as legal heirs of deceased 22nd defendant, cannot maintain a petition under Order 21 Rule 97 and 98 CPC to declare their title or to cause obstruction of delivery. The application under Order 21 Rule 97 and 98 can be filed only by the decree holder or by a third party to the suit.

5.The learned Counsel for the revision petitioners submitted that the execution petition is filed beyond the period of limitation and that the order of delivery is unsustainable. The learned Counsel himself admitted that the execution petition was disposed on 05.07.2017. It is further admitted that no revision petition is filed as against the order passed in the Execution Petition. In such circumstances, no useful purpose will be served by keeping this revision petition and this Court does not find any error or irregularity in the order of lower Court.

6.As a result, this revision petition is dismissed and the order passed by the learned Principal District Munsif, Kuzhithurai in E.A.No.108 of 2011 in E.P.No.87 of 2007 in O.S.No.642 of 1969, dated 05.07.2017, is confirmed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Principal District Munsif,
Kuzhithurai.

C.R.P. (NPD) (MD)No.18 of 2018
08.09.2020

cmr

SDS (17.09.2020) 4P-2C