



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

C.R.P. (NPD) .No.1054 of 2014

and

M.P. (MD) .No.1 of 2014

1. S.Sudalai
2. S.Pechimuthu

... Petitioners/Plaintiffs

Vs.

M.Subramanian Chettiar (died)

1. S.Deivanaiammal
2. T.Lingam

... Respondents

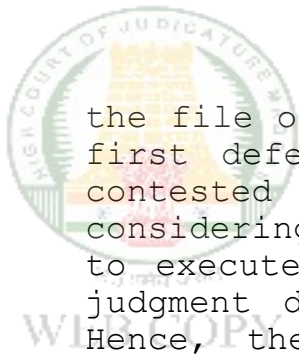
Prayer: The Civil Revision Petition is file under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 04.04.2014 passed in I.A.No.499 of 2012 in O.S.No.76 of 2008 on the file of the Sub Court, Tuticorin.

For Petitioners	: Mr.M.C.Swamy
For R2	: Mr.H.Arumugam

O R D E R

The present Civil Revision Petition has been filed by the plaintiffs against the order passed by the Sub Judge, Tuticorin in I.A.No.499 of 2012 in O.S.No.76 of 2008, dated 04.04.2014.

2. The petitioners herein have filed a suit in O.S.No.76 of 2008 on the file of the Sub Judge, Tuticorin against one Subramanian Chettiar and Lingam for the relief of specific performance of the sale agreement, dated 10.02.2007, said to have been entered between them and the said Subramanian Chettiar (D1). Their further case is that after entering such a sale agreement, the said Subramanian Chettiar sold the property to the second defendant (Lingam) and hence, the petitioners filed the aforesaid suit for the relief of specific performance against the original owner of the suit property (Subramanian Chettiar) and also the subsequent purchaser Lingam. Both the defendants remained ex-parte and hence, an ex-parte decree was passed on 14.11.2008. Thereafter, the petitioners herein / plaintiffs have filed an execution petition in E.P.No.54 of 2009 on



the file of the Sub Judge, Tuticorin and in the said E.P. also, the first defendant remained ex-parte and the second defendant alone contested the same by filing counter. The Executing Court, after considering the rival submissions, has allowed the E.P. and directed to execute the sale deed, by the order dated 19.10.2010. But the judgment debtors did not come forward to execute the sale deed. Hence, the Court has executed the sale deed in favour of the petitioners / plaintiffs on 10.12.2010 and the same has been duly registered and thereafter, the first defendant viz., Subramanian Chettiar died on 13.01.2011. Thereafter, his wife viz., Deivanaiammal (first respondent herein) has filed an application in I.A.No.499 of 2012 in O.S.No.76 of 2008 on the file of the Sub Judge, Tuticorin to condone the delay of 336 days in filing a petition to bring the LR's. of the deceased first defendant viz., the Subramanian Chettiar. The learned Sub Judge has allowed the said petition by the order dated 04.04.2014. Aggrieved by the same, the plaintiffs have filed the present civil revision petition.

3. Today, when this Civil Revision Petition came up for hearing, the learned counsel for the petitioners has filed a Memo stating that the first respondent / Deivanaiammal died and that the petitioners came to know the same through the Court notice sent to the first respondent / Deivanaiammal, which has been returned with an endorsement as 'party died'. Further, he has stated that even in the affidavit which was filed by the said Deivanaiammal in I.A.No.499 of 2012, she is the only legal heir of the original owner Subramanian Chettiar and no other legal heirs are available. Hence, the impugned order has become ineffective and nothing survives in the civil revision petition.

4. The Memo is recorded. Accordingly, the Civil Revision Petition is dismissed as infructuous. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

akv

Note: In view of the present lock down owing to COVID -19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To
The Sub Court,
Tuticorin.

Copy to: The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1 CC to Mr.G.RAJARAMAN, Advocate SR-15056.

+1 CC to Mr.H.ARUMUGAM, Advocate SR-15198.

C.R.P. (NPD) .No.1054 of 2014
26.08.2020

CS (11.09.2020) 3P 6C