

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP(NPD).Nos.2721 to 2724 of 2009

CRP(NPD).No.2721 of 2009

1. Indirani Evelappan
2. P.S.Somasundaram
3. P.S.Sathesh
4. Suganya Somasundaram

[Petitioners 2 to 4 rep. by their Power
Agent Indirani Evelappan].

... Petitioners

Vs.

1. Arulmighu Ramanattheswarar Koil,
Porur, rep.by its Executive Officer,
Having Office at Sri Sakthi Vinayagar Koil,
P.T.Rajan Salai,
K.K.Nagar, Chennai – 78.
2. Kanniappan (died)
3. P.S.Madhavan
4. Swarna Vanila Arasu
5. Aravina Arasu
6. Sharmila
7. Sujatha

[4 to 7 are rep.by their Power Agent Swarna Vanila Arasu]

8. Babu
9. Arivu

[R8 & R9 brought on records as LR's of the deceased
R2 viz., Kanniappan vide Court order dated
04.02.2020 made in CMP.No.10097, 10099 & 10103
of 2019 in C.R.P(NPD) No.2721 of 2009].

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 23.01.2009 passed in E.A.No.68 of 2004 in E.P.No.257 of 1989 in M.C.C.O.S.No.9933 of 1974 on the file of the Court of Principal District Munsif, Poonamallee.

For Petitioners : Mr.R.Bharath Kumar

For Respondents : Mr.S.Jaganathan
Government Advocate (CS) (for R1)
: Died (for R2)
: No Appearance (for R3 to R7)
: Not Ready in Notice (No Appearance)
for R8 & R9)

CRP(NPD).No.2722 of 2009

1. Indirani Evelappan
2. P.S.Somasundaram
3. P.S.Sathesh
4. Suganya Somasundaram
[Petitioners 2 to 4 rep. by their Power
Agent Indirani Evelappan].

... Petitioners

Vs.

1. Arulmighu Ramanatheeswarar Koil,
Porur, rep.by its Executive Officer,
Having Office at Sri Sakthi Vinayagar Koil,
P.T.Rajan Salai, K.K.Nagar, Chennai – 78.

2. P.N.Chidambaram

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 23.01.2009 passed in E.A.No.70 of 2004 in E.P.No.256 of 1989 in M.C.C.O.S.No.134 of 1975 on the file of the Court of Principal District Munsif, Poonamallee.

For Petitioners : Mr.R.Bharath Kumar

For Respondents : Mr.S.Jaganathan
Government Advocate (CS) (for R1)
: Not Ready in Notice (No Appearance)
(for R2)

CRP(NPD).No.2723 of 2009

1. Indirani Evelappan
2. P.S.Somasundaram
3. P.S.Sathesh
4. Suganya Somasundaram
[Petitioners 2 to 4 rep. by their Power
Agent Indirani Evelappan].

... Petitioners

Vs.

P.N.Chidambaram

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 23.01.2009 passed in E.P.No.256 of 1989 in M.C.C.O.S.No.134 of 1975 on the file of the Court of Principal District Munsif, Poonamallee.

For Petitioners : Mr.R.Bharath Kumar

For Respondent : Not Ready in Notice (No Appearance)
(for R2)

CRP(NPD).No.2724 of 2009

1. Indirani Evelappan
2. P.S.Somasundaram
3. P.S.Sathesh
4. Suganya Somasundaram
[Petitioners 2 to 4 rep. by their Power
Agent Indirani Evelappan].

... Petitioners

Vs.

1. Kanniappan (died)
2. P.S.Madhavan
3. Swarna Vanila Arasu
4. Aravina Arasu
5. Sharmila
6. Sujatha
[4 to 6 are rep.by their Power Agent
Swarna Vanila Arasu]
7. Arivu
8. Babu
[R7 & R8 brought on records as LRs of the deceased
R1 viz., Kanniappan vide Court order dated
04.02.2020 made in CMP.No.10100, 10102 & 10104
of 2019 in C.R.P(NPD) No.2724 of 2009].

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 23.01.2009 passed in E.P.No.257 of 1989 in M.C.C.O.S.No.9933 of 1974 on the file of the Court of Principal District Munsif, Poonamallee.

For Petitioners : Mr.R.Bharath Kumar

For Respondents : Died (steps taken) (for R1)
: Not Ready (No Appearance)
(for R2 to R8)

ORDER

These Civil Revision Petitions are directed as against the fair and decretal orders in E.A.No.68 of 2004 in E.P.No.257 of 1989 in M.C.C.O.S.No.9933 of 1974, E.A.No.70 of 2004 in E.P.No.256 of 1989 in M.C.C.O.S.No.134 of 1975, E.P.No.256 of 1989 in M.C.C.O.S.No.134 of 1975 and E.P.No.257 of 1989 in M.C.C.O.S.No.9933 of 1974 respectively dated 23.01.2009 on the file of the Court of Principal District Munsif, Poonamallee.

2. The learned counsel for the petitioners submitted that the first respondent filed a petition under Section 47 of the Civil Procedure Code, thereby, obstructing the delivery of possession in respect of the suit property. The Execution Court converted the application filed under Section 47 of the Civil Procedure Code into an application filed under Order 21 Rule 97 of the Civil Procedure Code and allowed the petition. When the order was passed under Order 21 Rule 97 of the Civil Procedure Code, the

petitioners have to file an appeal is provided Order 21 Rule 103 of the Civil Procedure Code.

3. Accordingly, the Civil Revision Petitions in C.R.P (NPD) Nos.2721 and 2722 of 2009 are dismissed. Insofar as, the Civil Revision Petitions in C.R.P (NPD) Nos.2723 and 2724 of 2009 are concerned filed as against the orders passed in the main E.P.Nos. 256 and 257 1989 in M.C.C.O.S.No.134 of 1975 and M.C.C.O.S.No.9933 of 1974, if the petitioners succeed in the appeal to be filed before the Appellate Court as against the orders passed in E.A.Nos.67 and 68 of 2004, the Execution Petition shall stand revised automatically.

4. In view of the above, these Civil Revision Petitions are dismissed. The Registry is directed to return the original impugned orders to the counsel for the petitioners forthwith. It is made clear that the Appellate Court shall not insist limitation while entertaining the appeal. No costs.

24.02.2021

Speaking/Non-speaking order

Index : Yes/No

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Note: The Registry is directed to return the original order to the counsel for the petitioners after getting necessary endorsement from the said counsel.

To

1. The Principal District Munsif, Poonamallee.
2. The Executive Officer,
Arulmighu Ramanatheeswarar Koil,
Having Office at Sri Sakthi Vinayagar Koil,
P.T.Rajan Salai,
K.K.Nagar, Chennai – 78.



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G.K.ILANTHIRAIYAN,J.

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