



C.R.P.(PD)No.869 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.869 of 2011
and M.P.No.1 of 2011

Anandan

.. Petitioner

Vs.

1.Omalinga Chettiar

2.Marie Proprietor Limited
Represented by K.T.K.Thirumeni
S/o.K.T.Kailasam
44, French Teachers street
Karaikal.

3.K.T.K.Thirumeni

4.Kasthoori

5.Jagadhambal

6.Parimala

7.Kalaivani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 10.07.2009

1/7



C.R.P.(PD)No.869 of 2011

made in E.P.No.73 of 2003 in O.S.No.87 of 1988 on the file of Additional District Court, Puducherry at Karaikal.

For Petitioner	: Mr.A.Arun Babu
For R1	: Mr.Sharath Chandran
	for Mr.Govind Chandrasekhar
RR2 to 4	: Dispensed with
R5	: died
For RR6 and 7	: No appearance

ORDER

Civil Revision Petition is filed against the order of dismissal dated 10.07.2009 made in E.P.No.73 of 2003 in O.S.No.87 of 1988 on the file of the Additional District Court, Puducherry at Karaikal.

2.The petitioner is 6th respondent, 1st respondent is the petitioner and respondents 2 to 7 are the respondents 1, 3 to 5, 7 and 8 in E.P.No.73 of 2003 on the file of the Additional District Court, Puducherry at Karaikal. Originally, the Bank of Baroda filed a suit in C.S.No.87 of 1988 on the file of the Supreme Court of Seychelles and the said suit was decreed. Subsequently, the decree was transferred to the Additional District Court, Puducherry at Karaikal. The Bank of Baroda assigned the



C.R.P.(PD)No.869 of 2011

said decree to the 1st respondent herein. The 1st respondent filed present E.P.No.73 of 2003 for sale of three items of properties.

3.The petitioner and 5th respondent filed separate counter statements and contended that E.P. is not maintainable on the ground that first and second item of properties mentioned in present E.P. were not attached in the previous E.P.No.10 of 1991. Third item of property has been deleted by the order of the Court dated 11.08.2006. Item Nos.1 and 2 are exclusive properties of the petitioner and prayed for dismissal of the present E.P.

4.The learned Judge considering the materials placed before him, held that Item No.3 was raised from attachment made in E.P.No.10 of 1991 in the petition filed for raising attachment in E.A.No.8 of 1993, Item Nos.1 and 2 were already attached in E.P.No.10 of 1991 and ordered proclamation of sale in respect of Item Nos.1 and 2.



C.R.P.(PD)No.869 of 2011

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5. Against the said order dated 10.07.2009 made in E.P.No.73 of 2003 in O.S.No.87 of 1988, the petitioner has come out with the present Civil Revision Petition.

6. Today, when the matter is taken up for hearing, the learned counsel appearing for the 1st respondent submitted that first item of the property was not attached earlier in E.P.No.10 of 1991, but the second item of the property was mentioned as Item No.1 in earlier E.P.No.10 of 1991 and second item of property was attached. The learned counsel appearing for the petitioner restricts his argument with regard to first item of the property in E.P.No.73 of 2003.

7. Though notice has been served on the respondents 6 and 7 and their names are printed in the cause list, there is no representation for them either in person or through counsel.

8. Heard the learned counsel for the petitioner, who is appearing before this Court physically as well as the learned counsel appearing for



C.R.P.(PD)No.869 of 2011

the 1st respondent through Video-conferencing/Hybrid mode and perused the entire materials on record.

9.From the materials on record, it is seen that first item of property in the present E.P.No.73 of 2003 is not same property as mentioned as Item Nos.1 and 2 in E.P.No.10 of 1991. First item of the property mentioned in present E.P. is not attached in earlier E.P.No.10 of 1991. The reference to the properties of Item No.1 mentioned in both the E.Ps. reveals that said properties are different and not one and the same.

10.The learned counsel appearing for the 1st respondent admitted that first item of the property mentioned in present E.P. and property mentioned in E.P.No.10 of 1991 are different. In view of the same, the order of the learned Judge is incorrect and erroneous with regard to Item No.1 of the property in present E.P.No.73 of 2003, the same is liable to be set aside with regard to Item No.1 of the property in present E.P.No.73 of 2003 and is hereby set aside. The 1st respondent seeks liberty to



C.R.P.(PD)No.869 of 2011

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recover the amount due by attaching the properties and speedy disposal of E.P.No.73 of 2003.

11.In the result, the Civil Revision Petition is partly allowed. It is open to the 1st respondent to file a petition to recover the amount due by attaching the properties. The E.P. is of the year 2003 and the learned Judge is directed to dispose of E.P.No.73 of 2003 as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

26.11.2021

Index : Yes/No
Internet: Yes/No
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To

The Additional District Judge
Puducherry at Karaikal.

6/7



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C.R.P.(PD)No.869 of 2011

V.M.VELUMANI,J.

Kj

C.R.P.(PD)No.869 of 2011
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26.11.2021