

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD). No.1845 of 2021

and C.M.P.No.14387 of 2021

(Through Video Conference)

1. Pachiammal

2. Gnanambal

...Petitioners

Versus

1. Manivasagam

2. Sidheswaran

3. Vadivel

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct to continue with further proceedings in I.A.No.1 of 2020 O.S.No.85 of 2010 on the file of the Subordinate Judge, Rasipuram, in accordance with law and the procedure and complete the same within the time frame as may be fixed by this Court.

For Petitioners : M/s. Elizabeth Ravi

ORDER

This Civil Revision Petition is filed seeking direction to the learned Subordinate Judge, Rasipuram to dispose I.A.No.1 of 2020 in O.S.No.85 of 2010 within a time frame to be fixed by this Court.

2. The learned counsel for the petitioners submits that the suit in O.S. No.85 of 2010 was filed seeking the relief of partition by the petitioners herein. The suit came to be dismissed on 01.02.2013. Against the said order of dismissal, the petitioners preferred an appeal in A.S.No.39 of 2013 on the file of the learned Principal District Judge, Namakkal and that was also dismissed on 28.08.2014. Then, the petitioners preferred second appeal in S.A.No.922 of 2015 and the same was allowed on 15.02.2017, whereby this Court declared that the petitioners are entitled for 1/6 share each in the suit property. Against the said judgment in Second Appeal, the respondents preferred SLP(Civil) No.14296 of 2017 and that was dismissed. Then, the petitioners preferred I.A.No.1 of 2020 for passing final decree in terms of preliminary decree. Now, the final decree application is pending without any progress on the ground that the respondents filed review application in SR.No.131766 of 2018 and it is

pending before this Court. It is alleged that SR.No.131766 of 2018 was filed against the judgment in S.A.No.922 of 2015. The final decree proceedings cannot be stalled for the reason of pendency of the aforesaid review application.

3. Considered the submissions made by the learned counsel for the petitioners and perused the records.

4. It is evident from the submissions made by the learned counsel for the petitioners that I.A.No.1 of 2020 is kept pending, obviously because of the representation made by the respondents in review application in S.R.No.131766 of 2019 that it is pending. However, it is seen from the copy of the docket entries filed, that no such entry is made by the learned Subordinate Judge, Rasipuram and the case is posted to 23.08.2021 from 06.08.2021 for filing counter of RR 2 to 4. Whatever may be the reason, pendency of S.R.No.131766 of 2019, which is said to have been filed against the judgment in S.A.No.922 of 2025 is not the ground for adjourning the proceedings in the final decree application. Especially, when the Hon'ble Supreme Court has dismissed the SLP(Civil)No.14296 of 2017. Therefore, the learned Subordinate

G.CHANDRASEKHARAN, J.,

sts/jai

Judge, Rasipuram is directed to proceed further in I.A.No.1 of 2020 and dispose the petition as expeditiously as possible, preferably within a period of four(04) months from the date of receipt of a copy of this order.

5. With these observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

13.09.2021

Index: Yes/ No
Speaking Order / Non-Speaking Order

sts/jai

To:

The Subordinate Judge,
Rasipuram

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Order made in
C.R.P.(PD).No.1845 of 2021