

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.Nos.2115 & 2116 of 2017

and

CMP.Nos.10071 & 10072 of 2017

CRP.NPD.No.2115 of 2017

Shanmugham(died)

1.Rathinam

2.Rajkumar

3.Sasikumar

..Petitioners

Vs.

1.A.Ponnusamy

Arunachala Gounder(died)

2.Karuppathal

3.Ramasamy

4.Subbaiyan

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the order and decretal order dated 06.01.2017 made in EP.No.50 of 2007 in OS.No.567 of 2004 on the file of the learned Principal Subordinate Court, Tiruppur.

For Petitioners : Mr.N.Manokaran

For Respondents

For R3 : Mr.L.Chandrakumar

For R1 : Mr.K.P.Sathish Kumar

R2 : Died (steps taken)

R4 : Notice served

CRP.NPD.No.2116 of 2017

Shanmugham(died)

- 1.Rathinam
- 2.Rajkumar
- 3.Sasikumar

..Petitioners

Vs.

- 1.A.Ponnusamy
- Arunachala Gounder(died)
- 2.Karuppathal
- 3.Ramasamy
- 4.Subbaiyan

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the order and decretal order dated 06.01.2017 made in EP.No.51 of 2007 in OS.No.568 of 2004 on the file of the learned Principal Subordinate Court, Tiruppur.

For Petitioners : Mr.N.Manokaran

For Respondents

For R3 : Mr.L.Chandrakumar

For R1 : Mr.K.P.Sathish Kumar

R2 : Died (steps taken)

R4 : Notice served

COMMON ORDER

These civil revision petitions are filed against the order and decretal orders dated 06.01.2017 made in EP.Nos.50 & 51 of 2007 in OS.Nos.567 & 568 of 2004 on the file of the learned Principal Subordinate Court, Tiruppur thereby allowing the petitions for delivery of possession.

2. The learned counsel for the petitioners would submit that the petitioners are the legal heirs of A.Shanmugham. Their grandfather i.e. Arunachala Gounder executed settlement deed in favour of their father i.e. A.Shanmugham. Subsequently, he unilaterally cancelled the same. Therefore, the petitioners' father A.Shanmugam filed suit in OS.No.77 of 2000 for declaration declaring that the cancellation of settlement deed is void. The said suit was decreed by the judgment and decree dated 26.11.2015. The said suit was filed on 30.06.2000. Subsequent to the said suit, another son i.e. the first respondent herein filed collusion suit for specific performance as against own father i.e. deceased Arunachala Gounder on two sale agreements and both the suits were allowed by the judgment and decree dated 20.10.2000. On the strength of the decree, the first respondent filed execution petition in EP.Nos.50 and 51 of 2007 for execution of sale deed and delivery of possession. The sale deed was also executed in his favour. At that juncture, the petitioners filed their counter stating that already the cancellation of settlement deed was set aside and the said properties were decreed in favour of the petitioners herein. However, the same was not considered and EP was ordered. Aggrieved by the same, the present civil revision petitions are filed.

3. While pending the civil revision petitions, on bifurcation of jurisdiction, the execution petitions were transferred to the file of the Sub Court, Palladam and renumbered as EP.Nos.22 & 23 of 2018. While pending EP's, the petitioners filed EA.Nos.30 and 32 of 2018 in both the EP's under Section 47 of CPC r/w Order 21 Rule 58 of CPC on the strength of the decree passed in favour of the petitioners herein in OS.No.77 of 2000. Those petitions were allowed by the fair and decreetal order dated 16.03.2020. Thereafter, the main EP itself was dismissed for default.

4. Recording the above submissions of the learned Counsel for the petitioners, these civil revision petitions are closed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

25.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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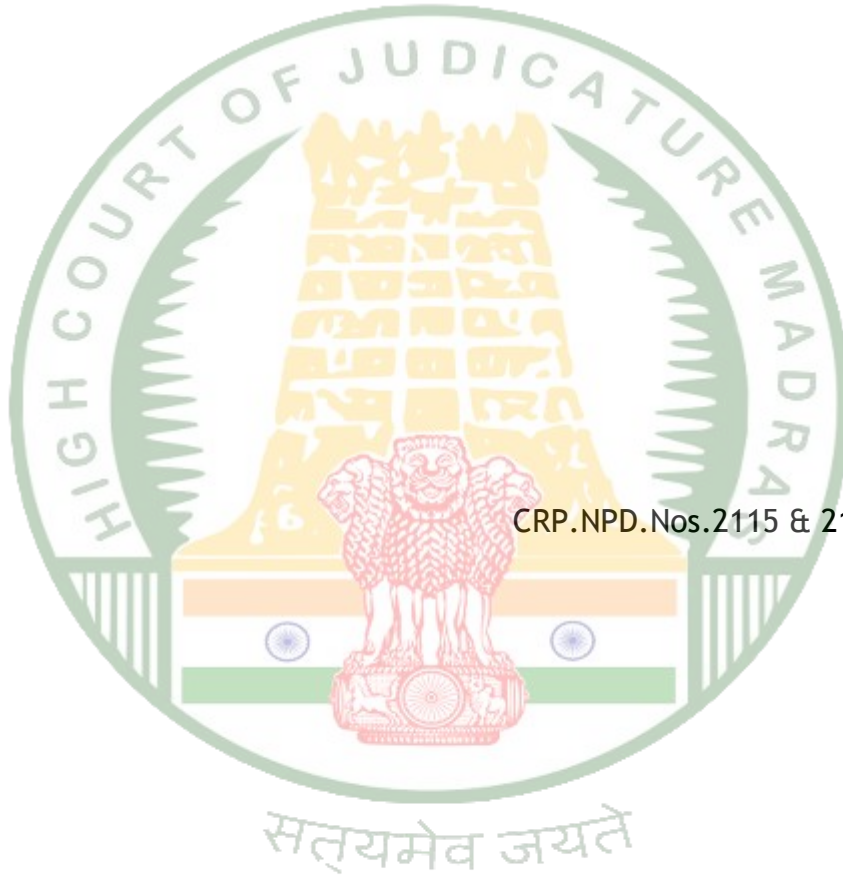
The Principal Subordinate Court,
Tiruppur



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G.K.ILANTHIRAIYAN,J.

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