

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.3428 of 2018

&

CMP.No.19273 of 2018

1.Ramu (a) Ramamurthy
2.Krishnamoorthy
3.Balu

... Petitioners

Vs.

Sundarajan (Died)

1.Thangaraj
2.Jothi
3.Thulasiraman
4.Sumathi
5.Suguna

... Respondents

Prayer: The Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 03.10.2018 passed in I.A.No.25 / 2018 in A.S.No.20/2018 on the file of I Additional Sub-Judge, Villupuram.

For Petitioners

: Ms. R.Sripriya
for Mr.V.Raghavachari

For Respondent
Nos.1 to 5

: Mr.T.Dhanyakumar

ORDER

The civil revision petition is filed against the fair and decreetal order dated 03.10.2018 passed in I.A.No.25 / 2018 in A.S.No.20/2018 on the file of I Additional Subordinate Court, Villupuram, thereby dismissing the petition seeking stay of all further proceedings of the order and decree in E.A.No.100 of 2010 in E.P.No.172 of 2008 in O.S.No.575 of 1991.

2.The petitioners herein are the appellants and the respondents are the respondents in the appeal suit in A.S. No. 20 of 2018. The said appeal suit was filed by the petitioners challenging the order of dismissal dated 10.10.2011 passed in E.A. No. 100 of 2010 in E.P. No. 172 of 2008 in O.S.No. 575 of 1991. Pending the appeal suit, I.A. No. 25 of 2018 was filed by the petitioners seeking stay of all further proceedings in E.A. No. 100 of 2010 in E.P. No. 172 of 2008 arising out of the judgment and decree in O.S.No. 575 of 1991.

3.The case of the petitioners is that the suit property, which originally belonged to their father Ranganathan, was brought under court

auction sale pursuant to the decree obtained in a suit instituted by one Perumal against their father and the same was purchased by one Lakshminarayanan by virtue of execution proceedings in E.P. No. 402 of 1972 in O.S. No. 100/72 on the file of Subordinate Judge, Cuddalore. According to the petitioners, the said Lakshminarayanan died intestate leaving behind 3 sons, namely, Sundarrajan (deceased), Thangaraj (1st respondent herein) and one Seetharaman and four other daughters. Two of his sons, namely, Sundarrajan and Thangaraj filed O.S. NO. 575 of 1991 as against the petitioners herein and their brother Seetharaman for declaration, recovery of possession and mesne profits, alleging that the petitioners had trespassed into the suit property in 1988. The said suit was dismissed as against which A.S. No. 94 of 1994 was filed by the respondents and the same was allowed, aggrieved by which, the present petitioners filed S.A.No. 940 of 2000 and the same was dismissed on 01.09.2008. The further case of the petitioners is that subsequent to the dismissal of S.A. No. 940 of 2000, the petitioners had purchased 3/7 shares from the daughters of Lakshminarayanan and filed O.S. No. 459

of 2009 for cancellation of the decree in O.S. No. 575 of 1991. But, the same was also dismissed as against which the petitioners have filed A.S. No. 48 of 2012, which is pending on the file of Principal Sub Court, Villupuram.

4. Therefore, if at all, the petitioners succeeded in the appeal suit, they can work out their remedy in the manner known to law. Hence, the Court below rightly dismissed the I.A. and this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.07.2021

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

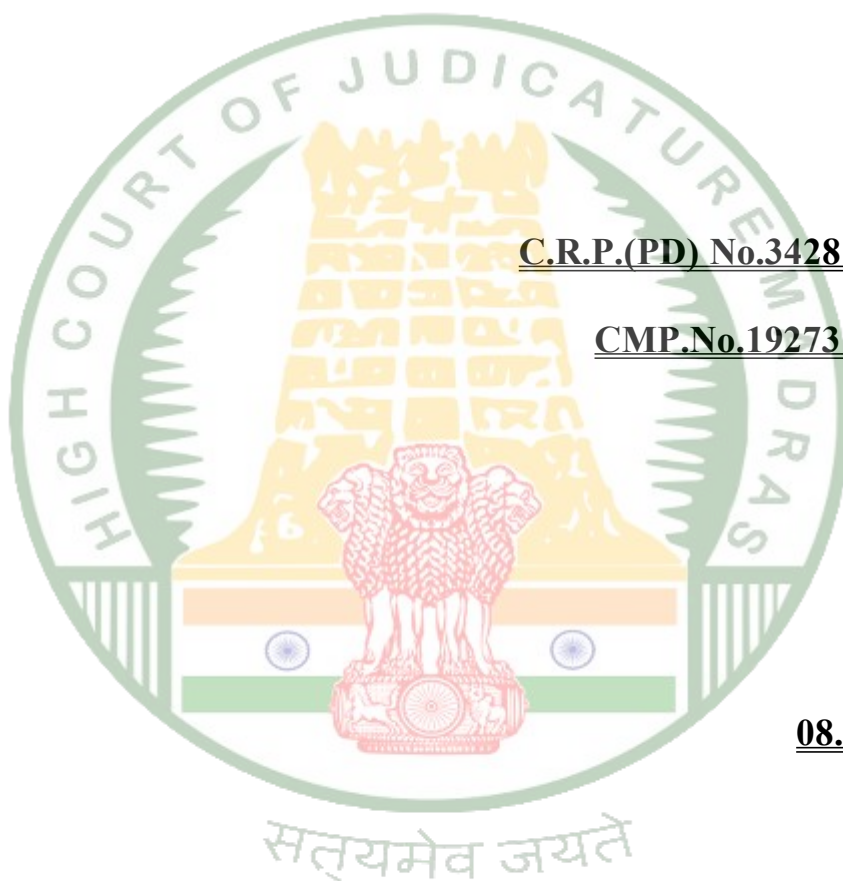
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To

I Additional Sub-Judge, Villupuram.

G.K.ILANTHIRAIYAN, J

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