



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.08.2021
CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

WEB COPY

CRP PD(MD) .No.1083 of 2021
and
C.M.P. (MD) No.6273 of 2021

Paradesi
S/o.Muthumalai : Petitioner/Petitioner/Plaintiff

Vs.

1.Lakshmi

2.Pon Eswari

Muthuraj (Died)

3.Manikandan @ Muthumani

4.Kannan

5.Saraswathi

6.Ponnuchamy

7.Sivanandha Perumal @ Ponraj

8.Narayanavadiivu

9.Mariammal : Respondents/Respondents/Defendants
(Relief claimed only as against the Respondents
1,3&4. Hence notice to other Respondents 2,5 to 9
be dispensed with)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to direct the Subordinate Judge, Thoothukudi to expeditiously hear the Interlocutory Application in I.A.No.197 of 2018 in I.A.No.337 of 2008 in O.S.No.143 of 2007 on the file of the Subordinate Judge, Thoothukudi.

For Petitioner : Mr.G.Prabhu Rajadurai

O R D E R

The Civil Revision Petition has been filed seeking order to direct the Subordinate Judge, Thoothukudi to dispose of the petition I.A.No.197 of 2018 in I.A.No.337 of 2008 in O.S.No.143 of 2007 on the file of the Subordinate Judge, Thoothukudi within the time



stipulated by this Court.

2.The revision petitioner is the plaintiff and he filed the suit in O.S.No.143 of 2007 for partition and for allotment of 1/3 rd share in the suit properties. The learned Subordinate Judge, has passed a preliminary decree dated 12.03.2008 declaring 1/3rd share of the plaintiff.

3.The learned counsel for the petitioner would submit that the interlocutory petition in I.A.No.337 of 2008 has been filed for passing of final decree, that an Advocate Commissioner was appointed and he has already filed his report, stating that the property could not be divided into 3 portions and that thereafter, the final decree petition is pending without any progress. Pending Final Decree petition, the petitioner has filed an application in I.A.No.197 of 2018 claiming temporary injunction, restraining the respondents and their men from making any construction in the suit property.

4.The learned counsel for the petitioner would submit that final decree petition is now pending for taking steps for the deceased/second respondent and hence, he seeks a direction to the learned Subordinate Judge, Thoothukudi to dispose of the injunction petition as expeditiously as possible.

5.Taking into consideration the facts and circumstances of the case and considering the fact that the final decree petition is pending from the year 2008 onwards and also the fact that the Commissioner informed that the property could not be divided into 3 shares, this Court is of the view that the trial Court is duty bound to proceed further, either to re-issue the commission warrant or to invoke the provisions of the Partition Act. Hence, the trial Court is hereby directed to dispose of the final decree petition in I.A.No.337 of 2008 in O.S.No.143 of 2007 within a period of four months from the date of receipt of a copy of this order.

6.With the above directions, this Civil Revision Petition is disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

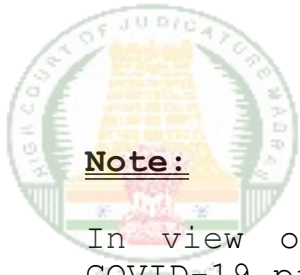
Assistant Registrar (Records)

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/ /2021

Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Subordinate Judge,
Thoothukudi

+1CC to G. Prabhu Rajadurai, Advocate (SR.No.25937)

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MGJ(19.08.2021) 3P 3C