

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON	17.12.2020
DELIVERED ON	08.01.2021

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI
C.R.P. (MD) No. 1921 of 2016 (PD)
and C.M.P. (MD) No. 9131 of 2016

N. Sadasivam ... Petitioner/Petitioner/Petitioner/Plaintiff

vs.

1. S. Mariammal
2. C. Paulraj
3. M. Francis Xavier ...R-2 & R-3 /R-2 & R-3/Proposed
Additional Respondents-2 & 3/D-2 & D-3

PRAYER: Petition filed under Article 227 of Constitution of India, to call for the documents pertaining to Fair and Decreetal order in E.A. No.20 of 2016 dated 14.06.2016 in E.P. No. 9 of 2005 in ARC No. 76 of 2002 pending on the file of the learned District Judge, Kanyakumari District at Nagercoil.

For Petitioner : Mr.P. Prabhakaran
For R-1 & R-2 : Mr. C. Kishore
For R-3 : Mr.S. Ramakrishnan

ORDER

The Civil Revision Petition has been filed to call for the documents pertaining to Fair and Decreetal order in E.A. No.20 of 2016, dated 14.06.2016 in E.P. No. 9 of 2005 in ARC No. 76 of 2002 pending on the file of the learned District Judge, Kanyakumari District at Nagercoil.

2. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents and perused the material documents available on record.

3. The learned counsel appearing for the revision petitioner submitted that the Execution Court has dismissed the impleading application without any reason and it is the bounden duty of the executing Court to execute the award as it is without any delay. He further submitted that the Execution Court ought to have allowed the impleading application the proposed respondents are the Judgment debtors and made as defendant Nos.1 & 3 in the award and that there is no hindrance to add as parties in the execution proceedings before the expiry of limitation period under Article 137 of Limitation Act. He further submitted that the Execution Court has not given sufficient opportunity to the revision petitioner to advance the arguments and not considered the non filing of counter on the part of the proposed additional 2nd respondent and respondent



in the execution proceedings. Hence, the revision petitioner is before this Court.

4. The learned counsel appearing for the respondents have reiterated the contentions set out in the counter affidavit filed in E.A. No.20 of 2016 in E.P. No. 9 of 2005 in ARC No. 76 of 2002 before the Court below.

5. Considering the facts of the case, the Civil Revision Petition has been filed against the Fair and Decreetal order, dated 14.06.2016 passed in E.A. No.20 of 2016 in E.P. No. 9 of 2005 in ARC No. 76 of 2002 to implead D-1 & D-3 in E.P. No. 9 of 2005 and the E.A. No. 20 of 2016 was dismissed. Award was passed against the three respondents in ARC. No. 76 of 2002 on 26.09.2002. The Execution Petition was filed in the year 2005 within the limitation period against the R-2 alone. Now, E.A. No.20 of 2016 has been filed to implead R-1 & R-3 in E.P. No.9 of 2005. There is no doubt that the Execution Petition was filed within the time limit. Award was passed against all the three respondents. The decree holder should realise the fruits of the decree and hence, the revision petitioner has right to implead the respondents. Therefore, this Court is inclined to allow the Civil Revision Petition.

6. In the result, the Civil Revision Petition is allowed and the order, dated 14.06.2016 passed in E.A. No.20 of 2016 in E.P. No. 9 of 2005 in ARC No. 76 of 2002 pending on the file of the learned District Judge, Kanyakumari District at Nagercoil is set aside. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1) The District Court,
Kanyakumari District at Nagercoil.

2) The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-606[F] dated 08/01/2021)

C.R.P. (MD) No.1921 of 2016 (PD)

08.01.2021