



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Reserved On : 08.04.2021
Delivered On : 19.04.2021

WEB COPY

CORAM:

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) .No.1968 of 2017

and

C.M.P. (MD) .No.9522 of 2019

1.T.Rajathi
2.T.Ravikumar
3.T.Jayakumar
4.Parimala

:Petitioners

Petitioners 1, 2 and 4 represented by
their power agent, the third petitioner, T.Jayakumar

Vs.

1.T.N.Ravi
2.T.N.Kalyanasundaram
Thillai Nayagi (Deceased)
3.M.Kamala
Nagam (Deceased)
4.T.N.Balasubramanian
5.T.N.Kanthasamy
6.T.N.Shanmugam
7.D.Vijayalakshmi
8.K.Chitra
9.J.Thangam
10.S.Sivagurunathan
11.S.Sumathi

: Respondents

PRAYER: This Civil Revision Petition has been filed under Section 115 of Civil Procedure Code, to set aside the order passed dated 14.06.2017, made in E.A.No.9 of 2017 in E.P.No.77 of 2016 in O.S.No.39 of 2004 on the file of the Additional District Court (Fast Track), Kumbakonam and by allowing the petitioner to get the entire decree amount deposited in E.A.No.9 of 2017 in E.P.No.77 of 2016 in O.S.No.39 of 2004 on the file of the Additional District Court (Fast Track), Kumbakonam.

For Petitioners : Mr.Gomathi Sankar
For Respondents 1 to 4, 7, 9 to 11 : No Appearance
For Respondents 5, 6 & 8 : Given Up

ORDER

This petition has been filed to set aside the order dated



14.06.2017, made in E.A.No.9 of 2017 in E.P.No.77 of 2016 in O.S.No.39 of 2004 on the file of the learned Additional District Judge (Fast Track), Kumbakonam.

2.The brief substance of the petition is as follows:

The third petitioner herein is the fourth plaintiff, who is the power agent for the petitioners 1, 2 and 4. The suit was decreed in favour of the plaintiffs. The plaintiffs have filed an execution petition in E.P.No.77 of 2016. The entire amount was paid by the judgment debtor and the amount is pending in the Court deposit. The petitioners have filed a cheque petition for receiving the amount by way of cheque in favour of the counsel for the plaintiffs.

3.The brief substance of the counter filed by the respondents reads as follows:

The petitioners already received a sum of Rs.46,254/- (Rupees Forty Six Thousand Two Hundred and Fifty Four only). The petitioners failed to file full satisfaction memo. Unless full satisfaction memo for the receipt of Rs.12,00,000/- (Rupees Twelve Lakhs only) is filed by the petitioner, they are not entitled to receive the balance amount from the Court. Part satisfaction memo is not sufficient. If the petitioners filed the full satisfaction memo, the defendants/judgment debtors have no objection in the amount to be given to the petitioners/plaintiffs.

4.After hearing both sides, the trial Court dismissed the petition. Against which, the revision petitioners preferred this Civil Revision Petition.

5.On the side of the petitioners, it is stated that the petitioners herein are the plaintiffs. The petitioners 1, 2 and 4 have already executed a power deed in favour of the third petitioner and the power deed is in existence. The petitioners 1, 2 and 4 have already filed an affidavit stating that they have no objection in giving the cheque in favour of the third petitioner. The petitioners are ready to file full satisfaction memo. On filing of full satisfaction memo, the respondents have no objection in petitioners withdrawing the said amount and prayed for an order for issuing the cheque in favour of the petitioners counsel.

6.Though the name of the respondents 1 to 4, 7, 9 and 11 printed in the cause list, none appears for the respondents 1 to 4, 7, 9 and 11. The relief against the respondents 5, 6 and 8 are given up by the petitioners.

7.The perusal of the records reveals that the trial Court dismissed the petition doubting the validity of the power deed and doubting the validity of the affidavit filed by the petitioners 1,2 and 4 and on the ground that cheque cannot be issued under Section 136 of the Code of Civil Procedure, 1908.



reasons to answer all these points.

8.It is seen that the plaintiffs have filed a suit in the year 2004. They filed an execution petition in the year 2016. They could not receive the fruits of the case so far. It is seen that the third petitioner has written a letter to the Trial Judge with some unnecessary comments. The relief sought for by the petitioners is to issue a cheque in the name of the counsel. The petitioners 1,2 and 4 have filed an affidavit stating that they have no objection in third petitioner receiving the amount.

9.Considering the above situation, considering the age of the petitioners and considering the facts and circumstances, this Court is inclined to pass the following order:

"The petitioner is directed to furnish the bank details of all the petitioners before the trial Court with I.D. Proof within a period of one month from the date of receipt of copy of this order. On such furnishing of the details, the learned Trial Judge is directed to transfer the amount due for each of the petitioners into their bank account."

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

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MRN

To

1.The Additional District Judge (Fast Track), Kumbakonam.

2.The Record Keeper,

Vernacular Section,

Madurai Bench of Madras High Court,

Madurai. 2 Copies

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-16437[F] dated 19/04/2021)

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CN(18.05.2021) 3P 5C

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