

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

RESERVED ON	23.12.2020
DELIVERED ON	19.01.2021

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI**C.R.P. (MD) No. 2083 of 2017 (NPD)
and CMP (MD) No. 10359 of 2017**

1. Muthu Ramasubramaniam
2. Navaneetha Krishnan .. Petitioners/Petitioners/R-4 & R-5/
3rd party

vs.

Ramu Reddy (died) ...Respondent/Petitioner/D-2

1. M. Valakuruvan ...R-1/R-2/R-2/2nd plaintiff
2. R. Seetha Lakshmi ...R-2/R-3/3rd party
3. Subhulakshmi
4. Sudhamani
5. R. Srinivasa Perumal ...R-3 to 5/Defendants/LRs of
deceased K. Ramu Reddy

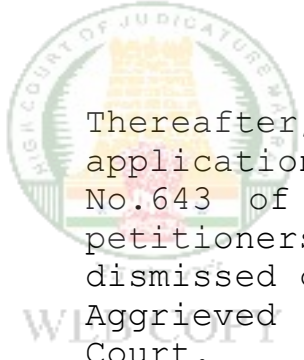
PRAYER: Petition filed under Section 115 of C.P.C., to set aside the order and decree made in E.A. No. 27 of 2015 in E.P. No.106 of 2008 in O.S. No.643 of 2004, dated 21.08.2017, on the file of the District Munsif Court, Vadipatti by allowing this Civil Revision Petition.

For Petitioners : Mr. M. Thirunavukkarasu
For R-1, R-2 & R-5 : No Appearance
For R-3 & R-4 : Mr.D. Senthil

ORDER

The Civil Revision Petition has been filed to set aside the order and decree made in E.A. No. 27 of 2015 in E.P. No.106 of 2008 in O.S. No.643 of 2004, dated 21.08.2017, on the file of the District Munsif Court, Vadipatti.

2. The R-1 herein has filed a suit in O.S. No.643 of 2004 on the file of the District Munsif Court, Vadipatti for recovery of possession and got an exparte decree in his favour. Followed by the court's exparte order, R-1 has filed a petition in E.P. No. 106 of 2008 in O.S. No. 643 of 2004 for delivery of possession.



Thereafter, the revision petitioners herein have filed an application E.A. No. 27 of 2015 in E.P. No.106 of 2008 in O.S. No.643 of 2004 seeking permission of the Court to inform the petitioners about the payment of auction amount and the same was dismissed on 21.08.2017 by the learned District Munsif, Vadiapatti. Aggrieved over the same, the revision petitioner is before this Court.

3. The learned counsel appearing for the revision petitioners submitted that the revision petitioners are the legal heirs of Judgment debtor Ramaiah and the subject matter of the property in E.P. No. 106 of 2008 was originally belonged to the grandfather of the petitioners. He further submitted that, after the demise of the petitioners' grandfather, their father Ramaiah became the coparcener and having each undivided 1/3 share and thereafter, the petitioners and their father are jointly enjoyed the said property. He further submitted that the Court below failed to see that the application filed by the legalheirs of the decree holder in Execution Court to intimate the amount to be deposited by them so that they could file a petition to set aside the sale. He further submitted that the dismissal of the application in E.A. No. 27 of 2015 by the Court below is not proper and the same is warranting interference by this Court.

4. Heard the learned counsel appearing for the revision petitioners and the respondent Nos.3 & 4 and perused the material documents available on record.

5. The revision petitioners/petitioners had filed E.A. No. 27 of 2015 in E.P. No.106 of 2008 in O.S. No.643 of 2004 seeking permission of the Court to give an intimation after ascertaining the dues for the purpose of filing application under Order 21 Rule 89 as to how the decretal amount to be deposited. The petitioners are sons of one M.Ramaiah. Against him, K.P. Ramaiah and another had filed suit for recovery of money in O.S. No. 559 of 1989 and got decree. After decree that K.P. Ramaiah had purchased the property in Court auction sale. The auction was confirmed on 22.02.1994. For recovery of possession, K.P.Ramaiah had filed O.S. No.643 of 2004 against the father of these revision petitioners and the same was also decreed. E.P.No.106 of 2008 was filed and property was also delivered on 25.02.2008.

6. Now, the petitioners had filed E.A. No.27 of 2015 to ascertain the amount to deposit which was due on the pro-note which was the subject matter of O.S. No. 559 of 1989. Sale was confirmed in the year 1994. This petition was filed in the year 2015. Both decrees in O.S. No. 559 of 1989 and 643 of 2004 were obtained against the father of these revision petitioners. After 21 years from the date of sale confirmation, they cannot file petition to ascertain the decree amount.



7. Therefore, the learned District Munsif, Vadipatti has rightly dismissed the E.A. No. 27 of 2015 in E.P. No.106 of 2008 in O.S. No.643 of 2004. This Court has no valid to interfere.

8. Finally, the Civil Revision Petition stands dismissed with Costs. The fair and decreetal order, dated 21.08.2017 in E.A. No. 27 of 2015 in E.P. No.106 of 2008 in O.S. No.643 of 2004 passed by the learned District Munsif Court, Vadipatti, is hereby confirmed.

Memorandum of Costs

**Respondents 3 & 4/LR's of deceased
plaintiff-2**

Rs. P.

Stamp for Vakalatnama

10 . 00

Advocate's fee on Rs.

Nil

Translation and Printing Charges

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**To be paid to the Respondents 3 & 4/
LR's of deceased plaintiff -2
By the petitioners/Defendant**

10 . 00

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1) The District Munsif, Vadipatti.

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

Order made in
C.R.P.(MD)No. 2083 of 2017 (NPD)
19.01.2021

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