



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1539 of 2012

1.V.Jeyalakshmi (Died)	... Petitioner/3rd party
P2.P.N.Venkatasamy	
P3.R.Anusha	
P4.V.Venkatesh	
P5.V.Pattabiraman	
P6.K.Radhika	... Proposed petitioners
	Vs.
1.Natanmai @ Mariappan	... Respondent/Petitioner/ Plaintiff
2.Karuppasamy	... Respondent/ Respondent/ Defendant

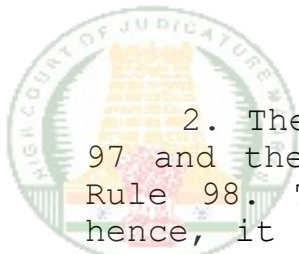
(PP2 to 6 are brought on record as legal heirs of deceased sole petitioner vide Court order, dated 13.07.2020 made in C.M.P(MD)Nos.3195 to 3197 of 2020 in C.R.P(MD)No.1539 of 2012)

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and final order, dated 22.02.2010 in E.A.No.84 of 2008 in E.P.No.24 of 2008 in O.S.No.96 of 2008 on the file of the District Munsif Court, Sivakasi.

For Petitioners	: Mr.S.Venkatesan for Mr.A.Sivaji
For R-1	: Died
For R-2	: No appearance

ORDER

The present revision petitioner is the third party to the suit. The first respondent in the revision filed O.S.No.96 of 2008 before the District Munsif Court, Sivakasi for the relief of recovery of possession. The said suit was decreed on 09.07.2008. A decree holder filed E.P.No.24 of 2008. Pending E.P., the third party revision petitioner filed E.A.No.84 of 2008 under Order 21, Rule 97 of the Civil Procedure Code. The said application was dismissed on 22.02.2010. Thereafter, on 03.03.2010, the decree holder himself filed a Memo not pressing the execution proceedings. Thereafter, the E.P was dismissed as not pressed on 03.03.2010.



2. The present application has been filed under Order 21, Rule 97 and the adjudication has been carried out only under Order 21, Rule 98. The order has been passed under Order 21, Rule 98 and hence, it should be treated as a decree as per Order 21, Rule 103. When the order passed by the execution Court in E.A.No.84 of 2008 to be treated as a decree, the present revision petition filed by the petitioner is not maintainable and he ought to have filed an appeal before the First Appellate Court.

3. The present revision petition has been filed on 26.07.2012. The period spent by the petitioner from 26.07.2011 and 08.04.2022 shall be excluded at the time of calculating the period of limitation whenever the petitioner approaches the first Appellate Court for filing an appeal as against the order in E.A.84 of 2008.

4. With the above said observation, this Revision Petition stands dismissed as not maintainable. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

btr

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 District Munsif,
Sivakasi.

+1 CC to M/s.A. SIVAJI, Advocate (SR-17718[F] dated 11/04/2022)

C.R.P (MD)No.1539 of 2012
08.04.2022

NSN(CO)
KB(29.04.2022) 2P 3C