



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Twenty Ninth day of November Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

CMP(MD) . No.11407 & 11409 of 2022

in

SA(MD) No. 947 of 2006

1. H.Rahamathulla (Died) ... Sole Appellant
2.R.Bajiriya Begum,
3 R.Mumthaj Begum,
4.R.Kathiya Begum,
5.R.Jagabar Nisha,
6.S.Seraj Nisha,
7.R.Mohammed Abdulla,
8.R.Mohammed Ibrahim,
9.R.Nazreen Banu, ...Petitioners 2 to 9/
Proposed Appellants
Lrs of Deceased 1st Petitioner
(Petitioners 2 & 4 to 9 are represented by
their Power Agent R. Mumthaj begum
the 3rd Petitioner herein)

Vs

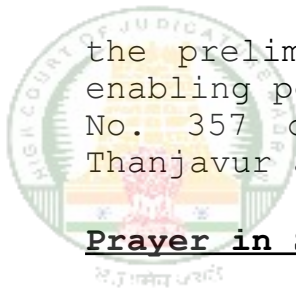
1 R.Murugaiyan,
2 V.Annadurai, ... Respondents/Respondents

Prayer in CMP(MD) . 11407/ 2022 :

This Civil Miscellaneous Petition filed under Order III Rule 3 of C.P.C pleased to recognize the power dated 26.12.2016 and permit the 3rd petitioner to conduct the case on behalf of all other petitioners also and thus render justice.

Prayer in CMP(MD) . 11409/ 2022 :

This Civil Miscellaneous Petition filed under section 148 and Order III of C.P.C pleased to pass an order extending the period of three months fixed for depositing the mortgage amount into court in



the preliminary decree dated 02.02.2010 in S.A.(MD).No.947 of 2006 enabling petitioners to deposit the mortgage amount into court No. 357 of 1998 on the file of the learned District Munsif, Thanjavur and to prosecute the final decree application.



Prayer in SA(MD). 947/ 2006 :

This Second Appeal filed under section 100 of the Civil Procedure Code against the Judgment and decree passed in A.S.No. 8 of 2004 dated 29/07/2004 on the file of the learned First Additional District Judge, Fast Track, Thanjavur confirming the Judgement and Decree passed in O.S. No. 357 of 1998 dated 24/07/2003 on the file of the learned District Munsif, Thanjavur.

ORDER:- These Civil Miscellaneous Petitions are coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.R.Ghireedharan, Advocate for the Petitioner and Respondent hereby been not appear either in persons or by an advocate, this Court made the following order:

C.M.P(MD).No.11407 of 2022 has been filed to recognize the power dated 26.12.2016 and permit the 3rd petitioner to conduct the case on behalf of all other petitioners.

2. C.M.P(MD).No.11409 of 2022 has been filed to extend the period of three months fixed for depositing the mortgage amount in the preliminary decree dated 02.02.2010 in S.A(MD).No.947 of 2006 enabling the petitioners to deposit the mortgage amount in O.S.No.357 of 1998 on the file of the District Munsif Court, Thanjavur.

3. Heard the learned counsel appearing for the petitioners.

4. The suit is for redemption and the same was decreed. The plaintiff carried a direction to deposit the mortgage amount before the trial Court vide the judgment of this Court dated 02.02.2010. However, within a period of three months, the records of the lower Court which were made available to enable the final disposal of the second appeal were not made over to the trial Court. In the meantime, the plaintiff himself died on 05.05.2016 and the legal representatives are brought on record. The legal representatives of the deceased plaintiff are stated to have been living in abroad and they constituted the 3rd petitioner herein as a power of attorney. Hence, C.M.P(MD).No.11407 of 2022 is allowed.

5. So far as the depositing of mortgage amount is concerned, the learned counsel submitted that apart from the reasons stated, COVID-19 intervened to rob 2 ½ years and the amount could not be mobilized.

6. This Court is satisfied with the reasons stated in the affidavit filed in support of the petition in C.M.P(MD).No.11409 of 2022 and the time for depositing the mortgage amount is extended



till 31.12.2022.
allowed.

Accordingly, C.M.P (MD) .No.11409 of 12/2022 is



Sd/-

Assistant Registrar (CO)

// True Copy //

WEB COPY

/12/2022

Sub Assistant Registrar (CS)

TO

1. The First Additional District Judge,
Fast Track Court, Thanjavur.
2. The District Munsif, Thanjavur.

Copy to:

The Section Officer,
V.R Section,
Madurai Bench of Madras High Court, Madurai.
+4CC to M/s.R.Ghiridharan, Advocate (SR.Nos.58390 & 58388)

ORDER DATED : 29/11/2022

=====

ORDER

=====

CMP (MD) . No.11407 of 2022

and

CMP (MD) . No.11409 of 2022

in

SA (MD) No. 947 of 2006

Giving direction and etc.

as stated within.

MGJ(07.12.2022) 3P 9C