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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No.1493 of 2021

and

C.M.P. (MD) No.8260 of 2021

Pushpam

...Petitioner/3rd Respondent/3rd Defendant

Vs.

1.Jespheenammal

...Respondent1/Petitioner/Plaintiff

2.Dharmakkon (Died)

3.Soosainayagagam

...Respondents 2 & 3/Respondents 1 & 2/
Defendants -1 & 2

4.Rajamony

...Respondent4/Respondent4/
Defendant -4

5.Nesaraj

6.Sundaran alias Vettothi Sundaram

7.Margret

8.Albin dhas

9.Joseph Dhas

10.Angli Dhas

11.Xavier Issac Dhas

12.Libin Dhas

13.Sobia Selvi

14.Felinthal

15.Subitha Selvi

16.Helan Selvi

..Respondent5 to 16/

Respondent5 to 16/Defendants -5 to 16

[Respondent No.2 died and Respondent NO.7 to Respondent No.16 who are already on record, are recorded as LRs of the deceased Respondent No.2, vide Court order, dated 25.01.2022].

PRAYER: Civil Revision Petition under Section 115 of Civil Procedure Code, to set aside the order, dated 23.11.2020 passed in E.P.No.22 of 2020 in O.S.No.51 of 2009 on the file of the Sub Court, Kuzhithurai and thereby allow the Civil Revision Petition.

For Petitioner

:Mr.M.R. Sreenivasan

For R-1, R-3,4 & 7

:Mr.K.N.Thambi

For R-2,5, 6, 8 to 16

:No appearance

**ORDER**

This Civil Revision Petition has been filed by the petitioner to set aside the order, dated 23.11.2020 in E.P.No.22 of 2020 in O.S.No.51 of 2009 passed by the learned Subordinate Judge, Kuzhithurai.

2.Originally, the suit in O.S.No.51 of 2009 was filed for partition. In the said suit, final decree was passed based on compromise. An advocate commissioner was also appointed and he has filed his report. On the basis of the said Commissioner report, the said E.P.No.22 of 2020 in O.S.No.51 of 2009 was ordered on 23.11.2020. Against the said order, dated 23.11.2020, the revision petitioner has not filed any revision against that order. Therefore, on 23.09.2021, delivery was effected. After 23.09.2021, the revision petitioner has filed an objection petition and the same is pending.

3.After filing the said objection petition, the petitioner has filed this Civil Revision Petition to set aside the order, dated 23.11.2020 in E.P.No.22 of 2020 in O.S.No.51 of 2009 passed by the learned Subordinate Judge, Kuzhithurai.

4.Even after filing an application under Section 47 and 4(5) of Civil Procedure, the revision petitioner has filed this Civil Revision Petition. The petitioner has to seek remedy only an under Section 47 and 4(5) of Civil Procedure and also the petitioner has filed first appeal against the petition and the same is also pending. So, the revision petitioner can seek remedy only in the first appeal and also an application under Section under Section 47 and 4(5) of Civil Procedure, filed before the EP Court.

5.In view of the foregoing reasons, this Civil Revision Petition stands dismissed by confirming the order, dated 23.11.2020 in E.P.No.22 of 2020 in O.S.No.51 of 2009 passed by the learned Subordinate Judge, Kuzhithurai. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa



To
The Subordinate Court,
Kuzhithurai.

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+1 CC to M/s.K.N.THAMPI, Advocate (SR-9790[F] dated 03/03/2022)

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-9989[F] dated
04/03/2022)

Order made in
C.R.P. (MD) No.1493 of 2021
02.03.2022

SS (CO)
TR(08.04.2022) 3P 4C