



CRP(NPD)(MD)Nos.1742 and 1743 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(NPD)(MD)Nos.1742 and 1743 of 2022
and CMP(MD)No.7645 of 2022

Mohana

... Petitioner in both
CRPs.

versus

1. Paramakudi Vaniyar Uravinmurai
Pothu Sabai,
Through its President Mr.Devendran
No.8/191 Kannagi Street,
Paramakudi Town,
Ramanathapuram District.

2. Paramakudi Vaniyar Uravinmurai
Pothu Sabai,
Through its Secretary Mr.Selam Chettiar,
No.8/191 Kannagi Street,
Paramakudi Town,
Ramanathapuram District.

3. Prabhakaran

... Respondents in both
CRPs.

CRP(NPD)(MD)No.1742 of 2022: Civil Revision Petition filed under
Section 115 of C.P.C. against the fair and decreetal order dated



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18.07.2022 made in E.A.No.12 of 2021 in E.P.No.15 of 2020 in O.S.No.330 of 1991 on the file of the District Munsif Court, Paramakudi.

CRP(NPD)(MD)No.1743 of 2022: Civil Revision Petition filed under Section 115 of C.P.C. against the fair and decreetal order dated 22.06.2022 made in E.A.No.23 of 2021 in E.A.No.12 of 2021 in E.P.No.15 of 2020 in O.S.No.330 of 1991 on the file of the District Munsif Court, Paramakudi.

For Petitioner in
both CRPs. : Ms.M.D.Devi Saravana Priya
For R1 and R2 in
both CRPs. : Mr.A.Arumugam

COMMON ORDER

CRP(NPD)(MD)No.1742 of 2022 has been filed against the fair and decreetal order dated 18.07.2022 made in E.A.No.12 of 2021 in E.P.No.15 of 2020 in O.S.No.330 of 1991 on the file of the District Munsif Court, Paramakudi.

2. CRP(NPD)(MD)No.1743 of 2022 has been filed against the fair and decreetal order dated 22.06.2022 made in E.A.No.23 of 2021



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in E.A.No.12 of 2021 in E.P.No.15 of 2020 in O.S.No.330 of 1991 on
the file of the District Munsif Court, Paramakudi.

3. The petitioner herein is a third party to the proceedings. The third respondent herein is her brother. Originally, the petitioner's father P.Ramasamy started a Hotel under the name and style of Nirmala Mess in the premises belonging to the respondents 1 and 2, 50 years back. While so, the respondents 1 and 2 filed a suit for eviction in O.S.No. 330 of 1991 before the District Munsif Court, Paramakudi, which was decreed by the trial Court and the same was confirmed upto the Second Appeal in S.A.(MD)No.267 of 2007. The petitioner's father Ramasamy died on 07.12.2007. Subsequently, the third respondent, who is the son of the deceased Ramasamy and brother of the petitioner, was brought on record.

4. The case of the petitioner is that she does not know about the suit proceedings and without her knowledge, her brother alone was



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impleaded as a party to the proceedings and obtained order. She recently came to know about the execution petition pending against her brother and immediately, filed a petition in E.A.No.12 of 2021 in E.P.No.15 of 2020 to implead herself as 4th respondent in the Execution Petition. Since she was advised that the above petition was filed mistakenly, she filed another petition in E.P.No.23 of 2021 to implead herself as Objector instead of 4th respondent in the execution petition. Both the applications were dismissed by the Execution Court on 18.07.2022 and 22.06.2022. As against those order, the present Civil Revision Petitions are filed.

5. The learned counsel appearing for the petitioner submits that the petitioner is also a tenant under respondents 1 and 2 and she is also running a Mess in the suit property. She does not know about the suit proceedings and the third respondent, without her knowledge, impleaded himself as a party to the proceedings, but not contested properly. After filing of the Execution Petition only, she came to know



about the order of delivery passed by the Court. She is also running the Mess in the suit property and therefore, an opportunity ought to have been given to her. However, the Executing Court, without considering the same, dismissed the above application. Hence, the petitioner is before this Court.

6. The learned counsel appearing for the first and second respondents submits that the petitioner's father, who lost his case in the suit, has also filed a second appeal in S.A.(MD)No.267 of 2007 before this Court. Pending the second appeal, he died and the petitioner's brother impleaded himself as a party in the second appeal and also contested the second appeal, however, he lost his case. Thereafter only, the Execution Petition was filed, wherein, delivery was ordered. After the delivery order, the petitioner has filed the above interlocutory applications as if she was not aware of the proceedings. The above interlocutory applications are filed only to delay the delivery proceedings. He further submits that the decree binds not only the



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parties to the suit but also their legal heirs. In this case, the decree was passed against the father of the petitioner, which also binds her. He further submits that the original tenant Ramasamy as well his son, the 3rd respondent and this petitioner, his daughter, have not paid any rent to the landlord in respect of the suit schedule properties. Further, the petitioner has not obtained any licence from the Paramakudi Municipality for running a Mess in the suit schedule property. Therefore, there is no necessity to implead the petitioner as a party in the Execution Petition.

7. This Court considered the rival submissions made and perused the available materials on record.

8. Originally, the petitioner's father P.Ramasamy was running a Mess under the name and style of Nirmala Mess in the premises belongs to the respondents 1 and 2. The eviction suit filed by the respondents in O.S.No.330 of 1991 was decreed by the trial Court on



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29.09.2004. Challenging the said decree, the petitioner's father Ramasamy invoked all the appeal remedies up to this Court by filing Second Appeal in SA(MD)No.267 of 2007. Pending the second appeal, he died on 07.12.2007 and thereafter, the third respondent, the son of the deceased Ramasamy and brother of the petitioner, was brought on record. The decree passed in O.S.No.330 of 1991 was also confirmed by this Court in S.A.(MD)No.267 of 2007.

9. The petitioner claims that she is a tenant under the respondents and she is also running a mess in the suit property. However, she came to know about the decree of eviction only at the time of executing the decree in E.P.No.15 of 2020. After knowing the same, she has filed the above interlocutory application to implead her as 4th respondent in that proceedings.

10. It appears that after dismissal of the second appeal, the Execution Petition was filed and delivery was also ordered and



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thereafter only, the petitioner has filed the above interlocutory applications, i.e. after 15 years from the date of passing the eviction decree.

11. As rightly contended by the learned counsel for the respondents, the decree binds not only the parties to the suit but also their legal heirs. Since the eviction decree is passed against the petitioner's father, it also binds the petitioner. Therefore, there is no necessity to implead the petitioner as 4th respondent in the execution proceedings. Hence, this Court is not inclined to entertain the Civil Revision Petitions.

12. Accordingly, both the Civil Revision Petitions are dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

01.11.2022

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Index : Yes / No.

Internet : Yes / No.



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To

1. The District Munsif Court,
Paramakudi.
2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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