



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD)Nos.87 & 1225 of 2017

and

C.M.P. (MD)Nos.314 & 5967 of 2017

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C.R.P. (MD)No.87 of 2017

Arulappan

... Petitioner/Petitioner/Plaintiff

Vs.

1.Johnson

2.Ronickam

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.No.632 of 2015 in O.S.No.119 of 2015 dated 30.08.2016 on the file of the learned Principal District Munsif, Padmanabhapuram, and allow the Civil Revision Petition.

For Petitioner : M/s.S.Saji Bino

For Respondents : Mr.R.Murugan

C.R.P. (MD)No.1225 of 2017

1.Annammal

2.Arulappan

... Petitioners/Petitioners/Petitioners
/Plaintiffs

Vs.

Mariya Chellammal (died)

1.Lazer

2.Lourdh Mary

Pathrose (died)

3.Celine Mary

Stanilaus (died)

4.Viyagulamuthu

5.Ronickam

6.Muthaiyan

7.Johnson

8.Pushpa Rani

9.Selvam

10.Raheem

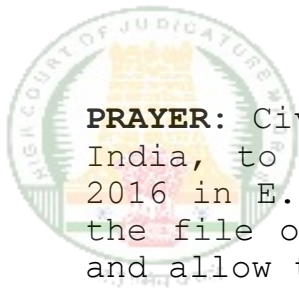
11.Anisham

12.Lilly

13.Albin Renjith Kumar

14.Reji Latha Roobi

... Respondents/Respondents/Respondents/
D-2, 3, 5,7,8,9 & 10 to 14 LR's of
4th Defendant/15 to 17 LR's of D-6



PRAYER: Civil Revision Petition under Article 227 of Constitution of India, to set aside the fair and decreetal order in E.A.No.88 of 2016 in E.P.No.33 of 2015 in O.S.No.216 of 1997 dated 15.11.2016 on the file of the learned Principal District Munsif, Padmanabhapuram, and allow the Civil Revision Petition.

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For Petitioners : M/s.S.Saji Bino
For R-1 : Dismissed for default
For R-2 & R-3 : No appearance
For R-4, R-6, : Set exparte
R-8 to R-14
For R-5 & R-7 : Mr.R.Murugan

COMMON ORDER

C.R.P. (MD)No.87 of 2017 has been filed to set aside the fair and decreetal order, dated 30.08.2016 in I.A.No.632 of 2015 in O.S.No.119 of 2015 passed by the learned Principal District Munsif, Padmanabhapuram.

C.R.P. (MD)No.1225 of 2017 has been filed to set aside the fair and decreetal order, dated 15.11.2016 in E.A.No.88 of 2016 in E.P.No.33 of 2015 in O.S.No.216 of 1997 passed by the learned Principal District Munsif, Padmanabhapuram.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The execution application in E.A.No.88 of 2016 was filed by the plaintiffs under Order 32 Rule 15 and Section 151 of Civil Procedure Code to appoint the 10th respondent as the guardian of the 8th respondent.

4.Heard on either side. Perused the material documents available on record.

5.The said petition in E.A.No.88 of 2016 was filed on the ground that 8th respondent is deaf and dumb and unable to defend the case. But, in the suits no petition was filed to appoint the 10th respondent as the guardian of the 8th respondent.

6.The suit in O.S.No.119 of 2015 was filed by the plaintiffs for declaration of settlement deed, dated 21.12.2012 executed by the 2nd defendant (deaf and dumb) is null and void and not binding the plaintiffs on the reason that due to his deaf and dumb and unable to defend the case and the execution deed is null and void.

7.The parties are same in both the suits. She has not claimed any guardian in O.S.No. 216 of 1997 to defend the case.



8.Further, as per Order 32 Rule 15 and Section 151 of Civil Procedure Code, guardian cannot be appointed for deaf and dumb. Since no petition was filed by the plaintiffs to prove the incapability of the 2nd defendant. So, without proving the incapability of the 2nd defendant she cannot seek guardianship.

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9.Hence, the trial Court has rightly dismissed the petitions.

10.In view of the foregoing reasons, these Civil Revision Petitions are dismissed by confirming the fair and decreetal order, dated 30.08.2016 in I.A.No.632 of 2015 in O.S.No.119 of 2015 and the order, dated 15.11.2016 in E.A.No.88 of 2016 in E.P.No.33 of 2015 in O.S.No.216 of 1997 passed by the learned Principal District Munsif, Padmanabhapuram. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Admin-I)

// True Copy //

Sub Assistant Registrar (CS)

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 Principal District Munsif,
Padmanabhapuram.

+2 CC to M/s.S.SAJI BINO, Advocate (SR-16606[F] & SR-16607[F] dated 05/04/2022)

+1 CC to MR.R.MURUGAN, ADVOCATE (SR-16419[F] dated 04.04.2022)

C.R.P. (MD) Nos.87 & 1225 of 2017
04.04.2022

RS (01.06.2022) 3P/5C