



C.R.P.No.1497 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.No.1497 of 2023

Dharmalingam (Died)

1.Papathi

2.Brinda Devi

3.Divya

4.Saravana Kumar

. . . Petitioners

Versus

Thavasu Mani

. . . Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to direct the Additional District Munsif Court, Namakkal to permit the petitioners to deposit the decree amount together with interest in R.E.P.No.149 of 2003 in O.S.No.768 of 1994 dated 05.12.1994, within the time to be stipulated by this Court.

For Petitioner : Ms.R.Divyapreathika
for Mr.R.Bharat Kumar

ORDER

This civil revision petition is filed questioning the return endorsement of the certified copy in R.E.A.No.927 of 2004 in R.E.P.No.149 of 2003 in OS.No.768 of 1994.



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2. The learned counsel for the petitioners submitted that the respondent/plaintiff has filed O.S.No.768 of 1994 for recovery of money and the said suit was decreed. Subsequently, R.E.P.No.149 of 2003 was filed for attachment of sale of immovable properties. Attachment was effected and properties were sold in auction and sale certificate also was given to the auction purchaser. Questioning the same, the petitioners, who are the wife, two daughters and son of the judgment debtor have filed E.A.No.927 of 2005 and the same was dismissed. Aggrieved by the same, the petitioners filed C.M.A.No.2 of 2007, which was also came to be dismissed. Again, the petitioners have filed C.M.S.A.No.18 of 2019 and this Court vide judgment dated 20.09.2022 has allowed the appeal and set aside the sale conducted on 08.06.2005.

3. Now, the petitioners are stated to have filed the lodgment schedule before the trial Court to accept the decretal amount of Rs.38,500/-. However, the Registry of the trial Court had returned the lodgment schedule stating that there is no order or decree to receive the said amount. The petitioners, without re-submitting the said lodgment schedule or without inviting the orders of the Court have hardly approached this Court for further relief.



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4. It is brought to the notice of this Court by the learned counsel for the petitioners that the petitioners herein, who have filed the lodgment schedule before the trial Court, are not the parties to the execution petition. The decree holder has failed to implead them as parties, after the demise of the judgment debtor.

5. Considering the circumstances, this Civil Revision Petition is disposed of directing the petitioners to re-submit the said lodgment schedule before the trial Court and invite orders and take appropriate legal remedies basing on the orders passed by the trial Court.

6. The Registry is directed to return the original lodgment schedule to the petitioners. The petitioners are directed to re-submit the lodgment schedule before the Court within two weeks from the date of receipt of a copy of this order and on such re-submission, the trial Court is directed to dispose of and pass appropriate orders on the lodgment schedule within a period of two weeks as per law. Since it is reported that the petitioners are not the parties to the Execution Petition, the Executing Court is also required to consider whether the



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petitioners can file lodgment schedule without impleading them as parties in

Execution Petition. There shall be no order as to costs.

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Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

ms

To

The Additional District Munsif Court,
Namakkal.



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DR.D.NAGARJUN, J.,
ms

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