



WEB COPY



C.R.P(PD)No.1324 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition (PD) No.1324 of 2021
and C.M.P.No.10356 of 2021

1.K.Shanmugasundaram

2.Kandasamy Konar

3.Arumuga Konar

...

Petitioners

Vs.

1.Thangaraj

2.The Sub Registrar,
Singanallur Sub Registrar Office,
Singanallur.

(The respondent No.2 is not a necessary party in the CRP and only a formal party and hence, given up)

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of

India praying to strike off the plaint in O.S.No.113 of 2021 on the file of the

IV Additional District Munsif, Coimbatore.

For Petitioners : Mr.N.Anbazhagan

For Respondent 1 : No Appearance

Page No.1 of 7



C.R.P(PD)No.1324 of 2021

For Respondent 2 : Given up

ORDER

WEB COPY

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.113 of 2021 on the file of the IV Additional District Munsif, Coimbatore.

2. Learned counsel for the petitioners submitted that the second and third petitioner has filed O.S.No.15 of 1979 for declaration and possession of property, on the file of the Principal District Munsif Court, Coimbatore, which was allowed on 07.02.1985 and decree was also passed on 07.02.1985. In order to set aside the order dated 07.02.1985, the respondents therein has filed Appeal Suit in A.S.No.19 of 1985 on the file of Principal Sub-Court Coimbatore and the same was allowed in favour of the respondents on 10.10.1988. Against which, the petitioners therein filed Second Appeal before this Court in S.A.No.539 of 1989. This Court vide order dated 31.08.2000 allowed the same and remitted the matter back to the lower appellate Court ie., Principal Sub Court, Coimbatore for fresh consideration.

3. Learned counsel for the petitioners further submitted that



subsequently, the matter was remitted back and the said appeal suit in A.S.No.19 of 1985 was dismissed by the Appellate Court i.e., Principal Sub Court, Coimbatore vide judgment and decree dated 30.06.2011. Thereafter, the respondents has filed second appeal in S.A.No.886 of 2012, on the file of this Court and the same is pending as of today. Pending disposal of the second appeal in S.A.No.589 of 2012, the respondent in the Civil Revision Petition has filed another suit in O.S.No.113 of 2021 on the file of the IV Additional District Munsif, Coimbatore for permanent injunction and also to direct the first respondent/first revision petition not to alienate and mortgage the suit property to any other persons. Aggrieved over the same, the petitioners herein as filed the present Civil Revision Petition to strike of the plaint in O.S.No.113 of 2021.

4. Learned counsel for the petitioner is present and no representation for the learned counsel appearing for the first respondent.

5. This Court by order dated 26.06.2023 vacated the interim order passed by the Court at the time of admission and directed the learned IV Additional District Munsif, Coimbatore to dispose of the O.S.No.113 of 2021,



within a period of three months from the date of receipt of a copy of this order. However, till date, the suit was not disposed. Hence, this Court vide order dated 18.10.2023 directed the Registry to verify whether any report has been sent by the learned IV Additional District Munsif, Coimbatore in compliance of the order passed by this Court on 26.06.2023 and further directed to mark a copy of the same to the learned Principal District Judge, Coimbatore.

6. In compliance of the aforesaid order dated 18.10.2023, the I Additional District Judge, Principal District Judge (FAC), Coimbatore vide A.No.1377 of 2023 and D.A.No.9436 dated 20.11.2023 sent a letter to the Registrar General of this Court along with a letter dated 03.11.2023 sent by IV Additional District Munsif, Coimbatore. For better appreciation, the relevant paragraphs of the said letter dated 03.11.2023 is extracted hereunder:

“ The original case is in the stage of written statement of Defendant Nos.1 and 3. However, the second defendant died and for which a memo recoding the death of second defendant was filed on 27.03.2023. On 04.08.2023, on the date of the suit hearing the Hon'ble High Court's direction regarding the disposal of the case within three months was recorded. Along with the written statement of D1 and D3 three interlocutory applications in I.A.No.2 of 2021, 2



WEB COPY



C.R.P(PD)No.1324 of 2021

of 2023 and I.A.No.3 of 2023 are pending. I.A.No.2 of 2021 is applicable for permanent injunction till the disposal of the suit, I.A.No.2 of 2023 is the steps petition filed for died 2nd defendant in I.A.Nod.2 of 2021. I.A.No.3 of 2023 is the steps filed for died 2nd defendant for O.S.No.113 of 2021. In both I.A.No.2 of 2023 and 3 of 2023 steps for substituted service for R5 to R8 is called for and posted on 22.11.2023. Hence, I did not dispose this case as earlier within a time fixed by our Hon'ble High Court, Madras.

Hence, in the above circumstances, I request your honour may kindly and graciously to extend the time to dispose the case.”

7. Considering the reasons stated in the letter dated 03.11.2023 sent along with the letter dated 20.11.2023 by the I Additional District Judge, Principal District Judge (FAC), Coimbatore, this Court is inclined to grant further extension for a period of three months to dispose of the suit O.S.No.113 of 2021. Accordingly, this Court directs the IV Additional District Munsif, Coimbatore to dispose of the suit O.S.No.113 of 2021, within a period of three months from the date of receipt of a copy of this order.

8. This Civil Revision is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is also closed.

30.11.2023

Page No.5 of 7



C.R.P(PD)No.1324 of 2021

vm

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

vm

C.R.P(PD)No.1324 of 2021



WEB COPY



C.R.P(PD)No.1324 of 2021

30.11.2023