



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4298 of 2022

and

C.M.P.No.22563 of 2022

M.Sagadevan (deceased)

1.Mrs.Seethalakshmi

2.Mr.S.Narendran

3.Ms.Pradeepa

... Petitioners

Vs.

K.Chinnarajah (deceased)

1.Mrs.Thangamma Chinnarajah

2.Ms.S.Prakashiny Baburaj

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the order dated 20.09.2022 passed in E.A.No.3 of 2022 in E.P.No.73 of 2010 in O.S.No.735 of 2007 on the file of the Hon'ble Principal District Munsif, Alandur.

For Petitioners

: Mr.P.Tamilavel



ORDER

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The Civil Revision Petition has been filed to set aside the order dated 20.09.2022 passed in E.A.No.3 of 2022 in E.P.No.73 of 2010 in O.S.No.735 of 2007 on the file of the Hon'ble Principal District Munsif, Alandur.

2. The Revision petitioners are the judgment debtors Nos.2 to 4/defendants in the suit. The suit was instituted for Declaration and Recovery of Possession and it was decreed in favour of the plaintiffs, who in turn, filed Execution Petition in E.P.No.73 of 2010. The Execution Petition was allowed by the trial Court. The respondents herein filed E.A.No.3 of 2022 under Section 50 and Section 151 of C.P.C to bring the legal heirs of the deceased Decree Holder Mr.Chinnarajah on record. Accordingly, the respondents 1 and 2 herein filed a petition for impleading themselves as legal heirs of the decree holder for the purpose of execution of the decree already passed by the trial Court. The revision petitioners herein raised an objection in the said petitions that the deceased decree holder has 4 legal heirs and the petition was filed only by the 2 legal heirs and therefore, the petition is liable to be rejected.



3. The trial Court considered the objections raised by the revision petitioners herein and made a finding that under Order 21 Rule 15 of C.P.C., the respondents 1 and 2 are having power to execute decree and accordingly, allowed the petition filed by the respondents 1 and 2. As per Order 21 Rule 15 of C.P.C., “if there is any joint decree, any one of the person may apply for execution for benefit of them all or also apply any one where any of them has died, for the benefit of the survivors and the legal representatives of the deceased.”

4. Accordingly, the respondents 1 and 2 have shown sufficient cause to grant permission as per sub-clause 2 of Rule 15 under Order 21 of C.P.C., the petitioners have stated in their petition that other two legal heirs of the deceased decree holder are permanent resident of Canada and therefore, the respondents 1 and 2 have to file the petition for the purpose of execution of the decree already passed by the trial Court. When the Court found that the respondents 1 and 2 have shown sufficient cause for the purpose of impleading themselves to execute the decree, this Court do not find any infirmity since it is permissible under the Code of Civil Procedure.



5. The objections raised by the revision petitioners herein are untenable, in view of the reason that the respondents 1 and 2 have shown sufficient cause for not impleading the other two legal heirs, who are the permanent resident of Canada. Thus, the present Revision Petition is filed only to delay the Execution Proceedings, which cannot be appreciated by this Court.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.01.2023

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Index : Yes
Speaking order: Yes
Neutral Citation: Yes

To

The Principal District Munsif,
Alandur.



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S.M.SUBRAMANIAM, J.

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