



C.R.P.(MD) No.876 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	17.07.2023
Pronounced on	17.11.2023

CORAM

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.876 of 2023
and
C.M.P.(MD) No.3968 of 2023

1.Muthusarojini

2.Felix Romario

...Petitioners

Versus

1. Nagarajan

2. Arockiyam

3. Jackin Wilson

4. Stephenkaspar

5. Margaretmary

... Respondents

Prayer: The Civil Revision Petition is filed under Section 115 of Code of Civil Procedure to set aside the fair and decreetal order dated 19.12.2022 made in I.A.No.529 of 2022 in O.S.No.61 of 2004 dated 19.12.2022 on the file of the District Munsif Court, Keeranur and allow this Civil Revision Petition.



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For Petitioners : Ms.N. Balakrishnan
For Respondents : No Appearance for R1

ORDER

The above Civil Revision Petition is preferred against the order in I.A.No.529 of 2022 in O.S.No.61 of 2004 dated 19.12.2022 on the file of the District Munsif Court, Keeranur.

2. According to the revision petitioners, the 1st respondent filed a suit in O.S.No.61 of 2004 for recovery of Rs.25,000/- under a pro note dated 23.03.2001, said to have been executed by one Savariraj, against his legal heirs. The defendants are the wife, parents and son of the deceased Savariraj. His mother died and her legal representatives was brought on record. The suit was decreed on 06.02.2008 to recover the amount from the defendants.

3. However, the decree was not drafted in conformity with the judgment. Taking advantage of the mistake in the decree, the 1st respondent filed E.P. to recover the decretal amount from the salary of the 1st revision



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petitioner. Hence, she filed I.A.529 of 2022 to amend the decree in conformity with the judgement, which was dismissed by the executing Court. Aggrieved by the same, the revision petitioners have preferred the present revision on the ground that the decree must follow the judgment.

4. In the present case, the judgment in O.S.No.61 of 2004 dated 06.02.2008 is decreed on the property of the deceased Savariraj. But, to the contrary, the decree in O.S.No.61 of 2004 is drafted as a personal decree on the defendants 1 to 4, legal heirs of the deceased Savariraj. The reason given by the Executing Court, while dismissing the above petition is against the provisions of Section 50 of the Code of Civil Procedure, 1908. The Executing Court, in its order, erroneously stated the petitioners have approached the Court at the lapse of 14 years, which is incorrect. It is submitted that there is no time limit provided under Section 152 of C.P.C. to set right the mistake. Hence, it is submitted that the order dated 19.12.2022 passed in I.A.No.529 of 2022 in O.S.No.61 of 2004 is liable to be set aside.

5. The 1st respondent remained absent.



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6. Heard the learned counsel for the revision petitioners and perused the materials on record.

7. It is not in dispute that the 1st respondent filed a suit in O.S.No.61 of 2004 against the husband of the 1st revision petitioner for the recovery of money borrowed under the promissory note dated 23.03.2001 out of the estate of the deceased husband of the 1st revision petitioner.

8. In O.S.No.61 of 2004, judgment was passed on 06.02.2008, as per the plaint prayer. However, the decree was drafted as personal decree on the defendants 1 to 4, who are the legal heirs of the deceased Savariraj. Thereafter, the respondent has filed Execution proceedings for executing the decree in his favour.

9. While so, the revision petitioners have filed I.A.No.529 of 2022 to amend the decree in conformity with the judgment and the same was dismissed by the Trial Court stating that the above petition was filed after the lapse of 14 years and therefore, it is not legally sustainable under Section 152 of C.P.C. Any clerical or arithmetical mistakes in judgments, decrees or



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orders or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Court, either of its own motion or on the application of any of the parties. Therefore, there is no time limit to correct the clerical or arithmetical mistakes in judgments, decrees or orders or errors arising from any accidental slip and it can be corrected by the Court either of its own motion or on the application of any of the parties.

10. Therefore, the findings of the trial court that the application filed under Section 152 C.P.C. belatedly is incorrect. Moreover, the decree cannot be in contrary to the judgment. Further, such correction do not touch the root of the case and it is only to amend the clerical or arithmetical error. Hence, the order passed by the trial court in I.A.No.529 of 2022 in O.S.No. 61 of 2004 dated 19.12.2022 on the file of the District Munsif, Keeranur is set aside.

11. Accordingly, the Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

17.11.2023

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Index:Yes/No

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Speaking Order : Yes/No

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To

The District Munsif Court, Keeranur.



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K.GOVINDARAJAN THILAKAVADI,J.

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Order made in

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