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C.R.P(MD)No.1667 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1667 of 2023

Meenakshi

... Petitioners/Petitioner/Plaintiff

Vs.

1.A.Mookammal

2.A.Karippah @ Pitchaimuthu

3.A.Kannammal

... Respondents/Respondents/
Defendants

Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Executing Court (District Munsif cum Judicial Magistrate Court, Natham) to give effect to the order passed in C.R.P(MD)No.1254 of 2008 dated 12.06.2019 and proceed with E.P.No. 06/2006 in O.S.No.352 of 1996 and dispose the same.

For Petitioners

:Mr.N.Vallinayagam

ORDER

The Civil Revision Petition is preferred by the petitioner for a direction to the District Munsif cum Judicial Magistrate Court, Natham, to give effect to the order passed in C.R.P(MD)No.1254 of 2008 dated



12.06.2019 and proceed with E.P.No.06/2006 in O.S.No.352 of 1996 and also to dispose the same.

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2.The revision petitioner as plaintiff filed a suit for specific performance in O.S.No.352 of 1996, before the Principal District Munsif Court, Dindigul, in which, an ex-parte decree was passed. The defendants were directed to execute the sale deed, after paying the balance amount of Rs.5,000/-, by the plaintiff, as per the order dated 16.12.1995. The time given for execution of the sale deed was three months and the revision petitioner was given liberty to proceed further to execute the decree through Court.

3.The relief of permanent injunction restraining the defendants in the suit from alienating the property was also granted. After the decree passed in the suit, the revision petitioner filed an execution petition before the District Munsif Court, Dindigul, for execution of the sale deed. Thereafter, the same was transmitted to the District Munsif Court, Natham and according to the revision petitioner, it was renumbered as E.P.No.6 of 2006.

4.While so, the defendants in the above suit, filed another suit in O.S.No.40 of 1998, before the Principal District Munsif Court, Dindigul and



the same was dismissed. Against which, first appeal was preferred and the same was also dismissed. Thereafter, the defendants in O.S.No.352 of 1996, preferred second appeal. While so, the Execution Court, dismissed E.P.No.6 of 2006 stating that an order of injunction granted in the second appeal was in force and at that time, the execution proceedings cannot be initiated. Against which, the present revision petitioner preferred C.R.P(MD)No.1254 of 2008, in which, this Court directed the Court below to restore or revive the execution petition, by its order dated 12.06.2019. In the mean time, the second appeal was also dismissed. However, there was a mistake crypt in the order dated 12.06.2019. The lower Court returned the papers stating that the number of the execution petition was wrongly mentioned as E.P.No.6 of 2017 and thereby, directed the revision petitioner to approach this Court as well as the executing Court to correct the said mistake. Against which, the present revision is preferred.

5.The mistake, at the first instance, crypt only in the order passed by the Execution Court, on 25.10.2007 itself. Therefore, the Executing Court itself can correct the mistake after verifying the relevant records pertaining to O.S.No.352 of 1996 and with respect to the identity of the parties and the subject matter of the suit. Therefore, the District Munsif cum Judicial Magistrate, Natham, is directed to correct the above mistake and proceed



with the execution proceedings in E.P.No.6 of 2006 on merits and in accordance with law. Since the suit is of the year 1996, the learned Trial Judge is also directed to dispose the suit within a period of two months from the date of receipt of a copy of this order.

6. With the above directions, this Civil Revision Petition is disposed of. No costs.

14.07.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
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To

1. The District Munsif cum
Judicial Magistrate Court,
Natham.
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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