



C.R.P.(MD) No.2108 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

**C.R.P.(MD) No.2108 of 2023**

E.Vanaja

... Petitioner

Vs.

Nagammal (died)

1.Sachidanandam

2.Mathivanan @ Durairaj

3.Kannapiran @ Somasundaram

4.Manimekalai

5.Mangaiyarkarasi

6.Geetha @ Sangeetha

7.Mahadevan

8.Venkatesh Prabhu

... Respondents

**Prayer:** This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal Sub Court at Thanjavur to dispose I.A.No.363 of 2018 in O.S.No.27 of 2002 within a time to be stipulated by this Court.



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For Petitioner : Mr.M.R.S.Prabhu

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**ORDER**

This Civil Revision Petition has been filed by the petitioner for speedy disposal of I.A.No.363 of 2018 in O.S.No.27 of 2002 on the file of the Principal Sub Court, Thanjavur.

2. This Civil Revision Petitioner filed by the petitioner is only for speedy disposal of I.A., notice for the respondents is not required and is therefore dispensed with.

3. According to the petitioner, the petitioner/plaintiff filed the suit in O.S.No.27 of 2002 before the Principal Subordinate Court, Thanjavur for partition and separate possession of her 1/8<sup>th</sup> share and for mesne profit. The defendants in the suit claimed rights on the basis of an alleged Will dated 01.02.2000. The suit was decreed on 30.03.2007, against which, the defendants preferred an appeal in A.S.No.20 of 2007 before the Principal District Court, Thanjavur. The first Appellate Court by its Judgment and Decree dated 29.08.2008 modified the decree dated 30.03.2007 passed in O.S.No.27 of 2002 and held that the petitioner/plaintiff was entitled to 1/16<sup>th</sup> share in B and C1 Suit Schedule Properties.



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4. Against the Judgment and Decree dated 29.08.2008 passed by the first Appellate Court in A.S.No.20 of 2007, the petitioner/plaintiff filed S.A.(MD) No.76 of 2009 before this Court. In the S.A., this Court has passed Judgment and Decree dated 28.02.2014 holding that the petitioner/plaintiff was entitled to 5/56<sup>th</sup> share in each B, C and C1 Suit Schedule Properties. This Court also permitted the petitioner/plaintiff to work out her remedy for mesne profits with regard to the said properties by taking a separate proceedings under Order 20 Rule 12 of the Code of Civil Procedure, 1908. Against the Judgment and Decree dated 28.02.2014 passed by this Court in S.A.(MD) No.76 of 2009, the first respondent herein had preferred S.L.P.(C) No.22155 of 2014 before the Hon'ble Apex Court which is pending.

5. As per liberty given by this Court in Judgment and Decree dated 28.02.2014 passed in S.A.(MD) No.76 of 2009, the petitioner filed I.A.No.363 of 2018 in O.S.No.27 of 2002 before the Principal Sub Court, Thanjavur for mesne profits. It is submitted that till the date of filing I.A.No.363 of 2018, the petitioner is entitled to a sum of Rs.38,55,000/- with subsequent mesne profits till the date of realization.



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6. The learned counsel appearing for the petitioner would submit that from 17.08.2018, I.A. was adjourned 6 times for filing counter affidavit and the counter affidavit was filed on 29.10.2018 and from 08.11.2018, the case was adjourned 71 times for enquiry. It is submitted that till date, no final order is passed in the I.A. and the respondents are periodically dragging on the proceedings in I.A. with the intention to avoid paying the mesne profits to the petitioner/plaintiff. Therefore, the petitioner/plaintiff was constrained to approach this Court for speedy disposal of the I.A.

7. Considering the above facts and circumstances of the case, the learned Principal Sub Judge, Thanjavur is directed to dispose the I.A.No.363 of 2018 in O.S.No.27 of 2002 on merits, without giving any unnecessary adjournments, expeditiously, within a period of 3 months from the date of receipt of a copy of this order.

8. Accordingly, this Civil Revision Petition is disposed of. No cost.

24.08.2023

NCC : Yes/No  
Internet: Yes/No  
Index: Yes/ No  
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To  
The Principal Sub Judge,  
Madurai.



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**K.GOVINDARAJAN THILAKAVADI, J.**

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