



C.R.P.(MD)No.2860 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.2860 of 2023

and

C.M.P.(MD)No.14888 of 2023

Ganapathy Ammal

: Petitioner/Petitioner/
Third Party

Vs.

1.Sappani Nambiyar

2.Annamalai Nambiyar

3.Seeni Nambiyar

4.Sendu Ammal

5.Nambi

6.Kuthalam

: Respondents 1 to 6/Respondents 1 to 6/
petitioners/Defendants 2 to 6 and 11

7.Lakshmi

8.Sithayee

: Respondents 7 & 8/ Respondents 7 & 8/
Respondents/Plaintiffs

9.Ramar Nambiyar

: 9th Respondent/9th Respondent/
3rd Respondent/Defendant

Perumal Nambiyar (died)

10th defendant

10.P.Mariyappan



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11.P.Subbiah

12.P.Arunachalam

13.P.Krishnan

14.P.Selvi : Respondents 10 to 14/Respondents 11 & 15/
Legal Heirs of the deceased 10th defendant

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order, dated 12.09.2023 passed in E.A.No.4 of 2023 in E.P.No.19 of 2013 in O.S.No.26 of 1998 on the file of the District Munsif Court, Shengottai.

For Petitioners : Mr.J.Barathan

ORDER

The Civil Revision Petition is directed against the order, dated 12.09.2023 passed in E.A.No.4 of 2023 in E.P.No.19 of 2013 in O.S.No.26 of 1998 on the file of the District Munsif Court, Shengottai.

2. The main contention of the petitioner is that in the preliminary decree it is shown that the petitioner's father is possessing land which is nearby suit property. But while describing four boundaries, the petitioner's father's property was shown as situated in southern side of the property.



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However, in Execution Petition, the EP Court has delivered the property belonging to the petitioner's father. Hence, the petitioner has filed a petition to recover the property, which is not shown in the decree. Therefore, the petitioner is claiming to set aside the order and to remit the matter back.

3. The learned counsel appearing for the petitioner further submitted that the said suit was decreed against the deceased person, for which, the petitioner is also relying on the death certificate. On perusing the impugned order, it is seen that the Lower Court has dismissed the petitioner's claim summarily without advertng to the facts. Hence this Court is of the considered opinion that the EP Court has passed an order without advertng to the facts stated supra and also without issuing notice to the other side and against dead person. Therefore, this Court is inclined to set aside the order.

4. In the result, the Civil Revision Petition is allowed. The impugned docket order, dated 12.09.2023 passed in E.A.No.4 of 2023 in E.P.No.19 of 2013 in O.S.No.26 of 1998 on the file of the District Munsif



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Court, Shengottai, is set aside. The trial Court is directed to number the petition and proceed further in accordance with law.

5. No costs. Consequently, connected Miscellaneous Petition is closed.

03.11.2023

Note :The Registry is directed to return the original petition, filed along with this revision to the learned counsel for the revision petitioner, retaining a copy of the same.

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The District Munsif, Shengottai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.2860 of 2023

S.SRIMATHY,J.

das

Order made in
C.R.P.(MD)No.2860 of 2023
and
C.M.P.(MD)No.14888 of 2023

Dated : 03.11.2023