



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2023

CORAM

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

C.R.P(MD)No.1794 of 2023

Smt.A.Subbammal(Died)

...Petitioner/Petitioner/Plaintiff

R.Balaji

... 2nd Petitioner/10th Defendant

Vs.

1.B.Vipularani
Gomathiammal(Died)

2.A.Subburam

3.A.Babu

...Respondents 1 to 3/Defendants 3, 5 & 6

R.Thilagam(Died)

4.S.Rohini Devi

5.R.Rathi Devi

R.Anitha(Died)

6.K.Subbulakshmi

7.K.Sargunam

8.Minor M.Mangalshree

9.Minor M.Yuvashree

10.R.Madhavan

...Respondents 8 to 10/LRS of R.Anitha

*Minor respondents 8 & 9 are
represented by their father and
guardian 10th defendant*

*(cause title is accepted vide Court
order Dated 10.07.2023 made in
C.M.P(MD)No.8178/2023)*

Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the executing Court to pass final decree in I.A.No.390 of



2004 in O.S.No.57 of 1996 on the file of the Principal District Court, Virudhunagar District, Srivilliputhur, within a time to be stipulated by this Court.

WEB COPY

For Petitioner

:Mr.D.Nallathambi

ORDER

This civil revision petition is filed for a direction to pass final order in I.A.No.390 of 2004 in O.S.No.57 of 1996 on the file of the Principal District Court, Virudhunagar District, Srivilliputhur, within a time to be stipulated by this Court.

2.According to the petitioner, the petitioner's grandmother filed a suit in O.S.No.390 of 2009 before the Principal District Munsif Court, Srivilliputtur, for partition and separate possession of her share. The said suit was partly decreed, on 06.10.2003. Against which, she filed an appeal in A.S.No.88 of 2004 and the respondents/defendants filed another appeal in A.S.No.10 of 2004 before the Sub-Court, Srivilliputhur and both the appeals were dismissed on 24.07.2009.

3.Aggrieved over the order passed in both the appeal suits, she preferred second appeal in S.A.No.167 of 2012 and the respondents/defendants filed S.A.No.681 of 2010, before this Court and this



Court allowed the appeals. Against which, the respondents/defendants filed Special Leave Petition before the Hon'ble Supreme Court in SLP.Appeal(C)Nos.15267 and 15268 of 2022. The Hon'ble Supreme Court dismissed the petition on 16.09.2022.

4. Thereafter, the petitioner has filed an application in I.A.No.390 of 2004 for passing final decree in the suit. The trial Court, by an order dated 30.06.2008, appointed an Advocate Commissioner in the final decree application for filing report along with plan. Thereafter, the case was periodically adjourned for filing Advocate Commissioner's report and plan. During the pendency of the final decree proceedings, some of the respondents/defendants died. Even after a lapse of three years, since the Advocate Commissioner did not file the report and plan, the trial Court has appointed a new Advocate Commissioner, on 05.03.2014. On 03.07.2019, the present Advocate Commissioner inspected the suit properties and thereafter, there is no progress in the above application. Hence, the petitioner has approached this Court for speedy disposal.

5. The learned counsel appearing for the petitioner/plaintiff would submit that as per the judgment of the Hon'ble Supreme Court in ***Civil Appeal No(S).6406-6407 of 2020***, in ***Kattukandi Edathil Krishnan &***



Anr.,-vs-Kattukandi Edathil Valsan & Ors., the Court below ought to have issued *suo motu* passed the final decree. In spite of an application filed by the petitioner/plaintiff, the final decree application is kept pending without any valid reason.

6.Considering the facts and circumstances of the case, this Court directs the Principal District Judge, Virudhunagar District, Srivilliputtur, to dispose the I.A.No.390 of 2004 on merits merits and in accordance with law, without giving unnecessary adjournments, after affording opportunity to the respective parties to put-forth their contentions, as expeditiously as possible, within a period of three months from the date of receipt of a copy of this order.

7.With the above direction, this civil revision petition is disposed of.
No costs.

31.07.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
Ns



WEB COPY

C.R.P(MD)No.1794 of 2



To

- 1.The Principal District Judge,
Virudhunagar District,
Srivilliputtur.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY

C.R.P(MD)No.1794 of 2



K.GOVINDARAJAN THILAKAVADI, J.

Ns

C.R.P(MD)No.1794 of 2023

31.07.2023