



C.R.P.(MD)No.3372 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 22.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3372 of 2023

1.S.Rathinaraj

2.R.Sasikala

3.S.Vijayakumar

: Petitioners/Appellants

Vs.

1.Rajeswari

2.The Sub Registrar,
Sub Registrar Office,
Thiruchuli Road,
Aruppukottai.

3.Thamim Nisha

4.Kathija Beevi

5.Mehar Nisha

: Respondents/Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Subordinate Judge,



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Aruppukottai to number the unnumbered C.M.A.SR.No.224 of 2023 and further directing to take the main appeal in accordance with law.

For Petitioners : Mr.B.Muneeswaran

For Respondents : Mr.J.John Rajadurai,
Government Advocate (Civil Side), for R2.

ORDER

The Civil Revision Petition is directed against the order of return in unnumbered C.M.A.SR.No.224 of 2023, dated 29.03.2023 on the file of the learned Subordinate Judge, Aruppukottai.

2. The revision petitioners have filed a Civil Miscellaneous Appeal, challenging the sale deed executed by the official receiver in pursuant to the declaration of the petitioners' father as insolvent in the proceedings in I.P.No.14 of 1992 on 02.04.1971.

3. It is evident from the records that the petitioners 1, 3 and two others have earlier filed a Writ Petition in W.P.(MD)No.9475 of 2012, challenging the very same sale deed and the learned Judge of this Court vide order, dated 06.07.2022, by observing that the Writ Petition is not



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maintainable, as statutory appeal is very much available, dismissed the writ petition giving liberty to prefer a statutory appeal.

4. In pursuance of the liberty given to the petitioners, the petitioners have preferred the appeal before the District Court and as per directions of District Court Office, the same was represented before the Sub Court, Aruppukkottai. But the learned Subordinate Judge has returned the appeal saying that the entire records in I.P.No.1 of 1970 were already sent to the Principal District Court, Srivilliputhur.

5. As rightly contended by the learned counsel for the petitioners, await records from the Principal District Court is not a ground for not taking the appeal on file. Except the above, the learned Subordinate Judge has not assigned any reason or ground for returning the appeal. Hence, the impugned order of return is not proper and is not in accordance with law. Hence, the learned Subordinate Judge, Aruppukkottai, is hereby directed to take the appeal on file, if it is otherwise in order and proceed further in accordance with law.



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WEB COPY 6. With the above direction, the Civil Revision Petition is allowed.

No costs.

22.12.2023

dasNCC :yes/No

Index :yes/No

Internet:yes/No

das

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.

To

1. The Subordinate Judge, Aruppukottai.
- 2.The Sub Registrar,
Sub Registrar Office,
Thiruchuli Road, Aruppukottai.
- 3.The Government Advocate (Civil Side),
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

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