



WEB COPY



C.R.P.[NPD].No.4256 of 2024
and C.M.P.No.23662 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD]No.4256 of 2024
and C.M.P.No.23662 of 2024

M.Gajendran

.. Petitioner

Vs.

1.M.K.Sathyamoorthy
M.L.Venkatesa Chettiya (Died)
M.L.Krishnamoorthi (Died)
Saraswathiammal (Died)
Pangajammal (Died)
Sathiyavathi (Died)
Padmavathi (Died)
2.Madhubala
3.M. Nithiyanandam
4.R. Raghupathi
5.R. Kamalanathan
6.M. Ramalingam
7.Balakrishnan
8.K.R. Sridhar,
9.K.R. Srihari
10.K.R. Srikanth
11.Sreemathi

.. Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 01.10.2019 passed in E.P.No.86 of 2011 in O.S.No.329 of 1996 on the file of the learned District Munsif, Gudiyatham.



C.R.P[NPD].No.4256 of 2024
and C.M.P.No.23662 of 2024

For Petitioner : Mr.D.Rajagopal
For R1 : Mr.V.Manoharan

ORDER

This Civil Revision Petition has been filed challenging the delivery order, dated 01.10.2019 in E.P.No.86 of 2011 in O.S.No.329 of 1996 passed by the Executing Court.

2.The petitioner said to be the purchaser of the subject property from one of the Co-owners in the suit in O.S.No.329 of 1996 filed for partition. One M.K.Satya filed a suit for partition as against his brother and his legal heirs. The revision petitioner said to have purchased an extent of six acres of land from one of the legal heirs during the pendency of the suit. After contest, the suit is decreed and a final decree has also been passed in favour of the plaintiff and 1/3rd share was allotted to the plaintiff. Pursuant to the same, the plaintiff filed execution petition in E.P.No.86 of 2011, which was allowed.

3.It is grievance of the revision petitioner that the delivery ordered by the Executing Court in respect of B schedule property, which contains



C.R.P[NPD].No.4256 of 2024
and C.M.P.No.23662 of 2024

discrepancy with regard to the boundaries and without setting right the boundaries properly, the possession has been ordered to the respondent. In this regard, the petitioner filed an application under Section 47 CPC, which also came to be dismissed and as against which, an appeal has been filed C.M.A.No.2 of 2018 on the file of the Sub Court, Gudiyatham. However, in the meanwhile, the delivery order has been passed.

4.Heard the learned counsel appearing for the petitioner as well as the respondents and perused the materials available on record.

5.The petitioner is only a *pendent lite* purchaser and hence he cannot claim equity in final decree proceedings. He will step into the shoes of the vendors. Therefore, whatever property being allotted to the vendor, he can take possession of that property. The revision petitioner being a purchaser of the property from one of the co-owners during pendency of the suit, cannot seek allotment of the same property which he had purchased. Therefore, this Court does not find any merits in the present revision to entertain the same. Already suit was decreed and a final decree has been



C.R.P[NPD].No.4256 of 2024
and C.M.P.No.23662 of 2024

passed and in E.P. proceedings delivery has been ordered and that this stage, the petitioner cannot claim over the property which he purchased from one of the co-owners specifically. It is for the revision petitioner to workout his remedy seeking allotment in favour of his vendor as per law.

6.In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2024

rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The District Munsif, Gudiyatham.



WEB COPY



C.R.P[NPD].No.4256 of 2024
and C.M.P.No.23662 of 2024



WEB COPY



C.R.P.[NPD].No.4256 of 2024
and C.M.P.No.23662 of 2024

N.SATHISH KUMAR, J.

rst

C.R.P.[NPD]No.4256 of 2024
and C.M.P.No.23662 of 2024

12.12.2024