



C.R.P.No.704 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.704 of 2018

and

C.M.P.No.3680 of 2018

1.Pavayee

2.Minor Keerthana

... Petitioners

Vs.

1.A.Palaniyappan

2.Thiyagarajan

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order passed in C.M.A.No.6 of 2013 on the file of the Sub-Court, Namakkal dated 03.06.2016 confirming R.E.A.No.56 of 2011 in R.E.P.No.85 of 2010 in O.S.No.374 of 2004 on the file of the Additional District Munsif Court, Namakkal.

For Petitioner : Mr.K.Rajasekaran

For respondent 1 : M/s.T.Dhanya Kumar

For respondent 2 : want of correct address



ORDER

The Civil Revision Petition is filed against the order passed by the First Appellate Court allowing the claim petition filed by the 1st respondent/claimant.

2. The petitioners herein obtained a money decree against 2nd respondent. In the execution proceedings initiated by the petitioners, the property allegedly belongs to 1st respondent got attached. Aggrieved by the same, the 1st respondent preferred a claim petition under Order 21 Rule 58 of CPC in R.E.A.No.56 of 2011 in R.E.P.No.85 of 2010 on the file of learned Additional District Munsif, Namakkal. The said claim petition was dismissed by the Executing Court. Aggrieved by the same, the 1st respondent preferred an appeal in C.M.A.No.6 of 2013 on the file of Sub-Court, Namakkal. The First Appellate Court allowed the appeal filed by the 1st respondent and as a consequence, the claim petition preferred by the 1st respondent stood allowed under Order 21 Rule 58 Sub-Rule 4. An adjudication regarding the claim made by a third party shall be treated as a decree for the purpose of appeal. Therefore, the order impugned in this revision is a deemed decree and the



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petitioners are entitled to file a second appeal. Therefore, the Civil Revision Petition is not maintainable and consequently, the same is dismissed.

3. It is made clear that the petitioners are entitled to exclude the time during which the civil revision petition was pending before this Court (i.e., from 03.11.2016 to date of receipt of copy of this order) for the purpose of calculating the limitation for filing second appeal. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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Note: Registry is directed to return the impugned order filed by the petitioners to the counsel for the petitioners.

To

- 1.The Sub-Court, Namakkal
2. The Additional District Munsif Court, Namakkal.



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S.SOUNTHAR, J.

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