



C.M.P.Nos.16267, 16268, 16269 of 2022 ...
C.R.P.No.2208 of 2020

C.M.P.Nos.16267, 16268 and 16269 of 2022
in C.R.P.No.2208 of 2020

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S.SOUNTHAR,J.

These instant applications have been filed to bring on record the legal representatives of the deceased 3rd respondent Kalvikkarasi along with petition to set aside the abatement and to condone the delay in filing petition to set aside the abatement.

2. The petitioner in main Civil Revision Petition had filed execution petition for arrest of respondents for willful disobedience to the judgment and decree dated 20.02.2020 in O.S.No.209 of 1996 on the file of learned Additional District Munsif Court, Thirupathur. The said execution petition was partly allowed on 19.02.2019 in respect of respondents 1 and 2. The execution petition was dismissed against 3rd respondent. Aggrieved by said order, respondents 1 and 2 filed revision in CRP.No.1454 of 2019 before this Court. The said CRP was disposed with direction to Executing Court to give a finding with regard to existence of underground pipeline. The dismissal of EP against 3rd respondent became final as it was not challenged by petitioner. Subsequently, executing Court found that there exist underground pipelines



C.M.P.Nos.16267, 16268, 16269 of 2022 ...
C.R.P.No.2208 of 2020

free from debris and closed EP. Aggrieved by the same, the petitioner is before this Court. Pending civil revision petition, the 3rd respondent died. The decree is for declaration of title and injunction. In view of death of 3rd respondent, the cause of action for maintaining execution petition (Arrest EP) against the 3rd respondent dies with the person. It is not the case of the petitioner that the legal representatives of the deceased 3rd respondent are also involved in violation of the decree subsequent to her death. In such circumstances, the right to sue against 3rd respondent will not survive to his legal representatives. Accordingly, these three civil miscellaneous petitions are dismissed. However, it is made clear that if the legal representatives of deceased 3rd respondent also indulged in the violation of the decree, it is open to the petitioner/decreed holder to enforce decree by filing fresh execution petition against legal representatives by invoking Section 146 of CPC.

01.03.2024
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S.SOUNTHAR,J.
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2/3



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C.R.P.No.2208 of 2020

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