



CMP(MD). No.3282 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Tenth day of December Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE N.SESHASAYEE

CMP(MD). No.3282 of 2024
in
Rev Appln (MD) SR.No.14599/2024

1. Manthiri Kumar
2. Rajasekaran
3. Karthick
4. Chinnappa
5. Muthukamatchi

... Petitioners/3rd party

Vs

- 1 Nagoorkani(Died)
1. Bharsha Beevi
- 2 N.Yakat Ali

...1st Appellant in S.A

3 N.Mansoor Ali

4 N.Thajudeen

5 S.Kalandar Beevi

6 N.Shakila Bani ...Respondents 1-6/ Appellants 2-7

Arimugam (Died)

.... 1st Respondent in SA

7 Padma

<https://www.mhc.tn.gov.in/judis>



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8 Gomathi

9 Karikalan

10 Revathy

11 Adhavan

12 Amutharani ... Respondents 7-12 / Respondents 2-7

Prayer in Rev Appln:-

The Petition is filed under order 47 rule 1 R/W Sec 114 of C.P.C to review the order of this Honble Court made in S.A.No,686/1998 dated 17/6/2022.

Prayer in C.M.P

The Petition is filed under section 151 of C.P.C to grant leave to permit the petitioners to file the above Review Application in S.A.No,686/1998 dated 17/6/2022.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Sakthi Sidharth, For Mrs.R.Suriya Narayanan learned counsel for the Petitioner this Court made the following order:

This case is listed under the caption ' for being mentioned' at the instance of the petitioners in C.M.P.(MD) No.3282 of 2024, to grant leave to them to file an application to review the judgment in S.A.No.686 of 1998.



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2. On 14.06.2024, this Court dismissed the CMP with an observation that the petitioners may agitate their rights in an independent suit.

3. The learned counsel for the petitioners submits that the respondents 7 to 12 had laid E.P.No.23/2023 before the Sub Court, Aranthangi, against respondents 1 to 6, whereas according to the petitioners, they are in actual physical possession of the property. He submitted that in law the petitioners have got right to enter obstruction in an Execution Petition for delivery, but due to the observation of this Court made in paragraph No.8 of its order dated 14.06.2024, a confusion has arisen as to whether the petitioners would be entitled to enter obstruction to delivery before the Execution Court.

4. It appears that the confusion has arisen because the order of this Court dated 14.06.2024, was tried to be understood by its letter and not so much so by its tenor. The idea is that the cause of action of the petitioners is independent of the cause of action for the suit as between the respondents 7 to 12 and respondents 1 to 6. It is in this circumstances, this Court refused to grant leave to the petitioners to review the judgment of this Court in S.A.No.686 of 1998, as their cause of action is alien to the cause of action in the suit. However, there is no indication anywhere in the order



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dated 14.06.2024 that the petitioners would not be entitled to pursue any other procedural remedies available to them. After all, even if the petitioners enter obstruction to delivery, the Execution Court might have to decide the title of the petitioners. Therefore, the petitioners are entitled to enter obstruction to delivery in E.P.No.23/2023 on the file of Sub Court, Aranthangi.

5. Having stated thus, this Court merely has indicated the right of the petitioners to obstruct delivery as per procedure but it cautiously restrain from making any further statement on their ability to sustain their proposed obstruction, on the merit of their case. That is left to be decided by the Execution Court after hearing the decree holders.

Sd/-

Assistant Registrar (A.E)

// True Copy //

12 /12/2024

Sub Assistant Registrar
(CS- I, II, III, IV)

DS

TO

1. The Sub Judge, Aranthangi,

2. The Special Govt. Pleader,

Madurai Bench of Madras High Court, Madurai



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The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 10/12/2024

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ORDER

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in

Rev Appln (MD) SR.No.SR.No.14599/2024

Giving direction and etc.
as stated within.

RD(12/12/2024) 5P / 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.