



C.R.P(MD)No.791 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No.791 of 2024
and CMP(MD)No.4400 of 2024

1.Joy Mary,J.
2.Jacintha Mary.J.
3.John Pal.J. ...Petitioners/Petitioners/Respondents/Defendants
Vs.

A.Rosaliammal (died)
1.Gnanathikkam
2.Amiruthasamy
3.L.Arockiasamy Pillai
4.Regina Mary
5.Josephine Mary
6.Selvamary
7.Anthuvan Sagayaraj
8.Ponangam

9.Varaganeri Cooperative Credit Society
Rep. by its President
Varaganeri
Trichy 8

10.Rosie Grace
11.Siriya Pushpa Rani ...Respondents/Respondents/Petitioners
PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C to set aside the order dated 22.11.2023 made in E.A.NO.7 of 2023 in E.P.No.9 of 2020 in O.S.No.781 of 1984 on the file of the learned 1st Additional Sub Judge, Trichy.



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For Petitioners : Mr.B.Jameelarasu

ORDER

This revision is filed to set aside the order dated 22.11.2023 made in E.A.No.7 of 2023 in E.P.No.9 of 2020 in O.S.No.781 of 1984 on the file of the learned 1st Additional Sub Judge, Trichy.

2. Heard the learned counsel for the petitioners and perused the materials available on record.

3. The facts, which are necessary for disposal of this revision are as follows:

Based on the preliminary decree, the plaintiffs filed a final decree application in I.A.No.284 of 2013 seeking for appointment of Advocate Commissioner. Advocate Commissioner was appointed. Based upon the Commissioner's report, I.A.No.750 of 2014 filed by the respondents/plaintiffs to deposit the share of the



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1st defendant was allowed even without giving notice to the 1st defendant. The 1st defendant died on 15.11.2019. Therefore, the petitioners/the legal heirs of the 1st defendant filed I.A.No.1 of 2023 in I.A.No.284 of 2013 to implead them. In the meanwhile, by virtue of ex-parte final decree application, the respondents pressurized the executing court for delivery of possession pending E.P.No.9 of 2020. Having no other option, the petitioners filed E.A.No.7 of 2023 to stay all other proceedings in E.P.No.9 of 2020 till the disposal of I.A.No.1 of 2023 in I.A.No.284 of 2013. Without considering all these aspects, the trial court has dismissed E.A.No.7 of 2023. Hence, the petitioner is before this Court.

4. The grievance of the petitioner is that pending I.A.No.1 of 2023 in I.A.No.284 of 2013, Execution proceedings is prosecuted. Therefore, he prays to set aside the dismissal order passed in E.A.No.7 of 2023 in E.P.No.9 of 2020.



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5. Considering the circumstances of the case, this Court is not inclined to set aside the order dated 22.11.2023 made in E.A.NO.7 of 2023 in E.P.No.9 of 2020 in O.S.No.781 of 1984 on the file of the learned 1st Additional Sub Judge, Trichy. Further, there shall be a direction to the 1st Additional Subordinate Judge, Trichirappalli, to expedite I.A.No.1 of 2023 in I.A.No.284 of 2013 and dispose of the same within a period of one month from the date of receipt of a copy of this order. Let further proceedings in E.P.No. 9 of 2020 be kept in abeyance till the disposal of I.A.No.1 of 2023 in I.A.No.284 of 2013.

6. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. 1st Additional Sub Judge, Trichy.

2.The Section Officer,

V.R.Section, Madurai Bench of Madras High Court,Madurai.



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G. ILANGO VAN, J.

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