



C.R.P(MD)No.2234 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2234 of 2019
and
C.M.P(MD)No.11582 of 2019

Sathya Development Pvt. Ltd.,
No.371, Palayamkottai Road,
Thoothukudi Town,
Through its Director,
G.Arulraj.

... Petitioner /Petitioner/
5th Defendant

Vs.

1.J.Pattarasi

2.S.Gomathi

...Respondents/Respondents/
Plaintiffs

3.Ramakrishnan

4.Maragadhavalli

5.Jesuraj

6.R.Soundirarajan

... Respondents/Respondents/
Defendants 1-4

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order, dated 08.01.2019 passed in I.A.No.931 of 2018 in I.A.No.1206 of 2016 in



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O.S.No.593 of 2012 on the file of Principal District Munsif Court, Tuticorin.

For Petitioner : Mr.M.P.Senthil

For R4 : Mr.S.Kadarkarai

ORDER

The 5th defendant in O.S.No.593 of 2012 on the file of the Principal District Munsif Court, Tuticorin is the revision petitioner herein.

2. The respondents 1 and 2 in the revision petition are the decree holders who had obtained the preliminary decree for partition in the above said suit on 02.04.2016. Based upon the said preliminary decree, the plaintiffs have filed I.A.No.1206 of 2016 for passing a final decree. In the final decree proceedings, the 5th defendant was set *ex parte* on 29.11.2017. Thereafter, the 5th defendant had filed I.A.No.931 of 2018 under Order 9 Rule 7 of Code of Civil Procedure to set aside the *ex parte* order. This application came to be dismissed by the final decree Court on the ground that the petitioner was not vigilant enough in defending the final decree proceedings. Now, it is brought to the notice of the Court that final decree has been passed on 28.01.2019 and the present revision



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petitioner has so far not filed any application to set aside the final decree.

In such circumstances, no purpose would be served in setting aside the *ex parte* order in the final decree proceedings. In case, if the 5th defendant is successful before the trial Court in reopening the final decree proceeding, it is for him to work out his remedy in the said application.

3. With the said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

18.04.2024

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

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To

- 1.The Principal District Munsif Court,
Tuticorin.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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