



WEB COPY

C.RP(MD)No.1464 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1464 of 2024

and

C.M.P(MD)No.8651 of 2024

A.Mohammed Ali(Died)

1.M.Hajaammal
2.M.Nisha Begam
3.M.Najeema Begam
4.M.Mohamed Dharreh
5.M.Lathifa Beevi

... Petitioners 1 to 5 / Respondents 2 to 6 /
Judgment Debtors

Vs.

S.Srinivasan

...Respondent/Petitioner/
Decree Holder

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree dated 24.04.2024 passed in E.P.No.61 of 2012 in O.S.No.64 of 2006 on the file of the learned Principal Subordinate Court, Thanjavur and allow this civil revision petition.

For Petitioners

:Mr.S.Sankarapandian

**ORDER**

This Civil Revision Petition is directed against the order dated 24.04.2024 passed in E.P.No.61 of 2012 in O.S.No.64 of 2006.

2.A perusal of the material records of the case reveals that, the suit was filed for specific performance. The suit was decreed. The decree has attained finality. Thereafter, the execution petition in EP.No.109 of 2008 was filed and the Court directed the execution of sale deed also. Since the judgment debtor did not execute the sale deed, the sale deed was executed in favor of the decree holder by the officials of the Court. Thereafter, the present execution petition is filed for delivery of possession. The same was resisted by the petitioners herein, who are the legal heirs of the deceased judgment debtor.

3.It was contended on behalf of the legal heirs that there is another collateral proceedings filed by one Kumar which is pending. The trial Court considered the objections and concluded that since the original decree itself is there is a clause of handing over possession and allowed the execution petition and ordered delivery. Aggrieved by the same, the present Civil revision petition is filed.



4.Mr.S.Sankarapandian, learned counsel appearing on behalf of the petitioner would submit that the claim petition filed by the said Kumar was dismissed and already Civil Miscellaneous Petition is pending. This apart, the property itself is an ancestral property and without even the signature of the legal heirs and the other shareholders in the ancestral property, the agreement was entered into and therefore, the decree itself is erroneous in law.

5.I have considered the said submissions made by the learned counsel for the petitioner.

6.As far as the Civil Miscellaneous Appeal of Kumar, who is a third party has got nothing to do with the petitioners herein, who are impleaded as the legal heirs of the original judgment debtor. As far as the second argument relating to the validity of the suit agreement or the decree is concerned, the same cannot be agitated at this point of time in the execution petition and all those grounds ought to have been raised in the original suit itself. When after the trial, a decree has been passed and the same has become final and the earlier execution petition also being allowed and the sale deed already having been executed, at this stage of delivery, the objections raised by the petitioners cannot be countenanced.



7.As such, finding no merits, the Civil Revision Petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

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NCC:Yes/No

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To

- 1.The Principal Subordinate Court,
Thanjavur.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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