



C.R.P(MD)No.1519 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.1519 of 2024

and

C.M.P(MD)No.8927 of 2024

Ravichandran

... Petitioner / Petitioner /
Petitioner / Plaintiff

Vs.

Gurumurthi

... Respondent / Respondent /
Respondent / Defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the impugned petition and order dated 24.04.2024 made in I.A.No.2 of 2024 in I.A.No. 6 of 2021 in O.S.No.108 of 2019 on the file of District Munsif Court, Manamadurai (F.A.C) set aside the same and allow this civil revision petition.

For Petitioner : Mr.V.Janakiramulu

For Respondent : Mr.RM.Arun Swaminathan



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ORDER

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Heard both sides.

2.The revision petitioner herein filed O.S.No.108 of 2019 on the file of District Munsif Court, Manamadurai for declaration and permanent injunction. The respondent herein filed written statement. Issues were framed. The parties will be trial.

3.The petitioner wanted to mark an unregistered partition deed. The Court below permitted the marking provided the petitioner paid deficit stamp duty and penalty under Section 33(1) of the Stamp Act. The petitioner was granted time till 07.09.2023 to make the payment vide order dated 17.11.2021 in I.A.No.6 of 2021. The petitioner failed to make the payment. There was delay of 57 days. Seeking enlargement of time, the petitioner filed I.A.No.2 of 2024 under Section 148 of CPC. The IA was dismissed vide order dated 24.04.2024 on the ground that I.A.No.6 of 2021 had already disposed of, the question of entertaining petition under Section 148 of CPC does not arise at all. Challenging the said order, the present Civil Revision Petition came to be filed.



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4.The impugned order runs counter to the decision of the Hon'ble Division Bench reported in **2006 (3) CTC 418 (Gowri Ammal Vs Murugan & Others)**. The Court below had proceeded on the premise that it had become *functus officio* on disposal of I.A.No.6 of 2021 and that therefore, it is incompetent to entertain I.A.No.2 of 2024. The Hon'ble Division Bench in the aforesaid decision had held that the Court would not become *functus officio* and that it would have power to extend time beyond the stipulated period provided sufficient cause exists. The Hon'ble Division Bench come to the conclusion on the conjoint reading of Sections 148, 149 and 151 of CPC. In this view of the matter, the impugned order is set aside.

5.This Civil Revision Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.08.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

MGA

To

The District Munsif Court,
Manamadurai (F.A.C).

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