



C.R.P.(NPD)(MD).No.638 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.638 of 2018

N.Jebamoni

... Petitioner/Petitioner/Petitioner
Plaintiff

-vs-

E.Jebamani (died)

1. Lalitha

W/o. Jebamoni

2. Rejikumar

S/o. Jebamoni

3. Ajithakumari

D/o.Jebamoni

4. Jeyachandra Kumar

S/o. Jebamoni

... Respondents 1 to 4/Respondents 1 to 4
Proposed Respondents 1 to 4/
Proposed Defendants 1 to 4

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair order and decreetal order dated 17.07.2017 passed in E.A.No.249 of 2004 in E.P.No.22 of 2003 in O.S.No.36 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai, Kanyakumari District.



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For Petitioner : Mr.J.Anandhavalli

For Respondents : No appearance

ORDER

The present Civil Revision Petition has been filed by the plaintiff/decree holder in O.S.No.36 of 1996, challenging the dismissal of delivery application.

2. The suit for specific performance was decreed by the trial Court on 11.01.2000. Relying upon the same, the plaintiff had filed E.P.No.22 of 2003 for execution of sale deed and the sale deed was executed. The plaintiff had filed E.A.No.249 of 2004, for taking delivery of the property. In the meantime, third parties to the proceedings have filed E.A.No.267 of 2004 under Order 21 Rule 97 of C.P.C., making a claim over the property. The said application was allowed by the Execution Court on 17.07.2017. Consequently, E.A.No.249 of 2004 filed by the decree holder for delivery of property was dismissed. This consequential order in E.A.No.249 of 2004, is under challenge in the present Civil Revision Petition.



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3. It could be seen from the records that the decree holder has not chosen to challenge the order in E.A.No.267 of 2004 where the title to the suit schedule property was declared in favour of the third parties. When that become final, the order of dismissing the delivery application is consequential in nature and the revision petition filed as against the said order is not maintainable.

4. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

17.04.2024

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

To
1. The Principal District Munsif Court,
Kuzhithurai,
Kanyakumari District.



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