



C.R.P.(MD).No.1772 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD).No.1772 of 2014

Porkodi

.. Revision Petitioner/Petitioner/
3rd Party

Vs.

1.Lakshimi (Died)

.. 1st Respondent/1st Respondent/
Petitioner/Plaintiff

2.Dhanalakshmi

3.Puvaneswari

4.Santhi

5.Karthik

.. Respondents 2 to 5/Respondents 2 to 5/
Defendants 2 to 5

6.Sivakami

7.N.Gangalakshmi

*(Name and address of R-7 amended vide
Court order dated 11.04.2022 made in
C.M.P.(MD).No.3130 of 2022 in C.R.P.
(MD).No.1772 of 2014)*



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8.Kanakavel

9.Jeyaraman

.. Respondents 6 to 9

(R-6 to R-9 are brought on record as LR's of the deceased 1st respondent vide Court order dated 03.02.2023 made in C.M.P.(MD).No.10984 of 2021 in C.R.P.(MD).No.1772 of 2014)

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decretal order dated 17.04.2014 in E.A.No.116 of 2007 in E.P.No.35 of 2006 in O.S.No.566 of 1990 on the file of the District Munsif, Thirumangalam.

For Petitioner : Mr.Chamundi Bose

For Respondents : Mr.M.Saravanan for R-6 to R-9
R-1 – died
No appearance for R-2 to R-5

ORDER

The present Civil Revision Petition arises against the dismissal order passed in an application filed under Section 47 of CPC.

2. The main ground put forth by the learned counsel for the petitioner is that during the pendency of the suit in O.S.No.566 of 1990 seeking for specific performance, the petitioner/third party has purchased the property from the defendants. The Trial Court after considering various aspects have ultimately dismissed the application filed under Section 47 of CPC.



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3. While perusing the facts of the case, it is seen that admittedly, the petitioner herein has purchased the suit property from the defendants on 15.06.1992 well after the filing of the suit. Therefore, this Court is of the view that while exercising Section 47 of CPC, the Executing Court cannot act beyond the scope of the decree. It is also pertinent to mention here that the power under Section 47 of CPC is microscopic and we cannot enlarge such power beyond the decree. Apart from that, since the transaction is *lis pendens* transaction, the same is hit by Section 52 of the Transfer of Property Act and Order 21 Rule 102 of CPC. Therefore, this Court does not find any infirmity in the order passed by the Trial Court.

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

02.02.2024

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



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To

- 1.The District Munsif Court,
Thirumangalam.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

Lm

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