



C.R.P(MD)No.879 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.879 of 2018

and

C.M.P(MD)No.9458 of 2018

Alagu Perumal (Died)

1.Nalli

2.Selvam

3.Balu Pillai

4.Jothi

5.Govindan

... Petitioners / Respondents 1,3-7/
Petitioners/Lrs of deceased plaintiff

Vs.

1.Panju

... 1st Respondent / Petitioner / 3rd Party

2.Ramayee Ammal

... 2nd Respondent/2nd Respondent/
Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the order, dated 07.11.2016 made in E.A.No.240 of 2014 in E.P.No.102 of 2012 in O.S.No.1205 of 2010 on the file of 3rd Additional Subordinate Court, Madurai.



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For Petitioners : Mr.R.G.Shankar Ganesh

For R-1 : Mr.S.R.A.Ramachandran

For R-2 : Mr.P.Rajagopalan

ORDER

The legal heirs of the decree holder in O.S.No.1205 of 2010 on the file of III Additional Sub Court, Madurai are the revision petitioners. The said suit has been filed for relief of specific performance. The said suit was decreed on 21.06.2011.

2. The decree-holder had filed E.P.No.102 of 2012. Pending execution proceedings, the 1st respondent herein had filed a claim petition under Section 47 of Code of Civil Procedure claiming title over the property. After considering the submissions on either side, the said claim petition in E.A.No.240 of 2014 was allowed by the Executing Court. Challenging the same, the present revision petition has been filed by the legal heirs of the deceased plaintiff.

3. Though it is mentioned that the claim petition has been filed under Section 47 of Code of Civil Procedure, the petition having been filed by a 3rd party to the suit and making a claim over the property for



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the title to the property, the said application has been filed only under Order 21 Rule 97 of C.P.C. The said application having been allowed conferring title upon the 3rd party to the suit, it is a deemed decree as contemplated under Order 21 Rule 103 of C.P.C and only an appeal lies before the competent first appellate Court. The present revision petition is not maintainable.

4. In view of the above said deliberations, this Civil Revision Petition stands dismissed as not maintainable with the liberty to the revision petitioner to file an appeal before the appropriate appellate Court. In case if an appeal is filed, the period spent by the revision petitioner herein between 3rd March 2017 till 10.04.2024 shall be excluded for calculation of limitation for filing an appeal.

5. With the said observations, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.04.2024

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



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Note : Registry is directed to return the original application filed along with this petition the learned counsel for the petitioner.

To

- 1.The 3rd Additional Subordinate Court,
Madurai.
- 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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