



C.R.P(MD)No.2623 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.2623 of 2023

D.Poomari Vazhavandhan

... Petitioner

Vs.

K.Mookkammal (died)

1.Karuppasamy

2.K.Shanmugapriya

3.Puvaneswarapandian

...Respondents

Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to call for the entire records pertaining to I.A.No.168 of 2018 in O.S.No.410 of 2009 dated 11.08.2023 by the learned III Additional Subordinate Judge, Madurai, and to set aside the order passed therein.

For Petitioner

: Mr.C.M.Arumugam

For Respondents

: Mr.R.Balamuruganantham

ORDER

This civil revision petition is filed against the order dated 11.08.2023 made in I.A.No.168 of 2018 in O.S.No.410 of 2009.



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2. By the judgment reported in **2023 SCC Online SC 1662 (The Koushik Mutually Aided Cooperative Housing Society Vs. Ameena Begum & Anr.)**, the Hon'ble Supreme Court of India, considering the fact that the dismissal of the application under Section 5 of Limitation Act also results in dismissal of the application under Order 9 Rule 13, held that an appeal would only be maintainable even as against the petition rejecting the application under Section 5 and the civil revision petition is not maintainable.

3. In view thereof, the Civil Revision Petition is dismissed as not maintainable, however, with liberty to the petitioner to file an appeal before the appropriate Court. The period from 25.09.2023 to till the date of receipt of a copy of the order shall be deducted while calculating the limitation for the purpose of filing of the appeal. The Registry to return the original fair and decretal order so as to enable the counsel to file an appeal.

No costs.

15.07.2024

NCC:Yes/No
Index:Yes/No
Rmk



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To

- 1.III Additional Subordinate Judge, Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of the Madras High Court, Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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