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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No.2584 of 2024
and
C.M.P(MD)No.14940 of 2024

1. PR.Palaniappan @ Thirunavukarasu
2. PR.Gnanam Achi
3. Ramu @ Poornam
4. Vasantha @ Alagammal
5. PM.Ramanathan

...Petitioners

Vs.

PR.PL. Ramanathan Chettiar (Died)

- 1.Rama.Ramanathan
- 2.Rama.Swaminathan
3. RM.Chithra
4. RM. Ekammai
5. Sivakami
6. RM.Umayaal
7. RM.Anantha Meenakshi

... Respondents

PRAYER: Civil Revision Petition is filed under section 115 of Civil Procedure Code, 1908 to allow this Civil Revision Petition by setting aside the fair order and decreetal order made in I.A.No.383 of 2022 in O.S.No.110 of 1997 dated 10.09.2024, on the file of the Additional Sub Court, Pudukkottai.



For Petitioners : Mr.N.Balakrishnan

For Respondents : M/s.D.Rameshkumar, for R-1

ORDER

This Civil Revision Petition is filed by the defendants 2,6,15,18 and 19 to aside the Fair and Decreetal order passed in I.A.No.383 of 2022 in O.S.No.110 of 1997 dated 10.09.2024, on the file of the Additional Sub Court, Pudukkottai. The said defendants are subsequent purchasers.

2. The suit in O.S.No.110 of 1997 was filed for partition and the said suit is filed in the year 1997. In the said suit, exparte preliminary decree was passed on 03.10.2012 and thereafter, for passing of final decree an interlocutory application was also filed. The final decree application was taken on file and all the parties were heard elaborately and Advocate Commissioner was also appointed. At this stage, the revision petitioners herein have filed I.A.No.383 of 2022 to set aside the exparte preliminary decree along with condone delay application to condone the delay of 383 days. The said I.A. No.383 of 2022 was dismissed, aggrieved over the present revision petition is filed.



3. It is seen that the revision petitioners are only subsequent purchasers and they have purchased the property from the respondents 1 to 6 herein. The said respondents 1 to 6 are having share in the suit property and in the final decree they would be allotted shares. The subsequent purchasers would be getting the said shares which would be allotted to the said respondents 1 to 6. When the case is pending for passing final decree, at this stage, the preliminary decree cannot be set aside.

4. The apprehension of the revision petitioners is that they have put up construction in the vacant site and they are possession for the past 20 years and the same would be demolished. The apprehension of the revision petitioners can be considered while passing the final decree. For the same it is not necessary to set aside the exparte decree. Therefore, the revision petitioners are directed to file an application in the final decree petition, within a period of Two weeks from the date of receipt of a copy of the order. On such petition being filed, the Learned Additional Sub Judge, Pudukkottai. is directed to hear the petition and pass orders on merits, within a period of six weeks, therefrom. And thereafter may consider the final decree application and pass orders, as per law.



5. Accordingly, this Civil Revision Petition is disposed of. No

Costs. Consequently, connected miscellaneous petition is closed.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- To
1. The Additional Sub Court,
Pudukkottai.
 2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.R.P(MD)No.2584 of 2024

25.10.2024