



C.R.P.(MD)No.623 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.623 of 2021
and C.M.P.(MD).No.3458 of 2021

Chellan (Deceased)

Neela Kantan Nadar (Deceased)

1.Leelavathy

2.Lizy

3.Vijayan

4.Rajan

5.Vijayakumari

6.Sathin

7.Sivakumar

... Petitioners/Respondents/Defendants

Vs.

1.George

2.Bovas

... Respondents/Petitioners/Plaintiffs 2 & 3

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order passed in E.P.No.84 of 2009 in O.S.No.360 of 1980 on the file of the Principal District Munsif, Kuzhithurai dated 01.03.2014.



C.R.P.(MD)No.623 of 2021

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.P.Prabhakaran for R2

In respect of R1 petition was already dismissed on 12.07.2018 in SR stage.

ORDER

This civil revision petition has been filed to set aside the order passed in E.P.No.84 of 2009 in O.S.No.360 of 1980 on the file of the Principal District Munsif, Kuzhithurai dated 01.03.2014.

2.The facts in brief:

E.P.No.84 of 2009 was filed by the Decree holder under Order 21 Rule 35 and Section 151 of CPC to deliver 'B' schedule property, in pursuance of the Judgment and Decree passed on 11.09.2008. Counter was filed by the revision petitioner stating that decree was passed exparte. Against which I.A.No.187 of 2010 was fled to set aside the exparte decree. That was dismissed. Against which, appeal was preferred in C.M.A.No.1198 of 2011 and it is stated to be pending before the appellate authority. After hearing both sides the execution Court was of the view that sufficient opportunity was given to the revision petitioner herein to get the stay order. In spite of that he failed. So E.P cannot be



C.R.P.(MD)No.623 of 2021

kept pending. So delivery was ordered to be effected on or before 25.03.2015. Against which this revision has been preferred.

3.Heard the learned counsel for the petitioner as well as the counsel for the second respondent.

4.Absolutely, no ground is made out by the revision petitioner herein to entertain this revision petition. The revision petitioner ought to have prosecuted CMA before the appellate authority. What happened to the CMA is not disclosed in the grounds. It is stated that Simply because CMASR number is pending before the appellate authority, execution petition cannot be dismissed. Now it is stated that the above said CMASR was numbered and pending in C.M.A.No.1198 of 2011. The petitioner has to prosecute only the above said CMA and even now the stage of the CMA was not intimated to this Court. Since it is stated to have been pending from the year 2011, which cannot be a correct fact, so I find absolutely, no reason to entertain this revision. Revision fails.

5.Accordingly, this civil revision petition stands dismissed. No



C.R.P.(MD)No.623 of 2021

costs. Consequently, connected miscellaneous petition is closed.

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

- 1.The Principal District Munsif, Kuzhithurai.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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C.R.P.(MD)No.623 of 2021

G.ILANGO VAN,J.

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C.R.P.(MD)No.623 of 2021

12.11.2024