



C.R.P(MD)No.2033 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

**C.R.P(MD)No.2033 of 2024
and
C.M.P(MD)No.11574 of 2024**

1.Alagarsamy @ Chandrasekar
2.Murugan
3.Krishnaveni
4.Alaguraj
5.Alaguselvam ... Petitioners / 3rd Parties

Vs

1.Alagulakshmi ... Respondent / Plaintiff
Alagarsamy (died)
2.Subbulakshmi ... Respondents / 3rd Defendant

Prayer : This Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order passed in E.A.No.288 of 2018 in E.P.No.123 of 2017 in O.S.No.540 of 2004 on the file of the Principal District Munsif, Thoothukudi, dated 29.01.2024.



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For Petitioner : Mr.R.Balakrishnan

For R1 : Mr. P.Vignesh Kumar

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order passed in E.A.No.288 of 2018 in E.P.No.123 of 2017 in O.S.No.540 of 2004 on the file of the Principal District Munsif, Thoothukudi, dated 29.01.2024.

2. E.A.No.288 of 2018 was filed by this revision petitioner under Order 21 Rule 58 of C.P.C., making claim over the suit property. The execution Court on merit dismissed the petition by order dated 29.01.2024. Against which, this Civil Revision Petition is preferred.

3. The revision petitioner was heard on the question of maintainability. In view of the judgment of the Hon'ble Supreme Court made in the case of ***Gurram Seetharam Reddy Vs Gunti Yashoda and another***, reported in ***2004 (5) CTC 283***. Since this petition is filed under Order 21 Rule 58 of CPC, it is only an appealable order. So revision will



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not lie. This position is accepted by the revision petitioner and sought leave of this Court to grant liberty to him to file proper appeal.

4. In view of the bonafide mistake committed by the revision petitioner in prosecuting this revision petition, this Civil Revision Petition is dismissed, granting liberty to him to file proper appeal. While filing the appeal, the time spent in prosecuting this matter may be deducted under Section 14 of the Limitation Act.

5. With this above liberty, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

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

23.01.2025

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G.ILANGO VAN, J.

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To

- 1.The Principal District Munsif, Thoothukudi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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