

Minor Jayalakshmi and Another Vs. Seenuvasan and Others

Minor Jayalakshmi and Another Vs. Seenuvasan and Others

SooperKanoon Citation : sooperkanoon.com/1190502

Court : Chennai

Decided On : Jun-15-2016

Judge : M. Duraiswamy

Appeal No. : C.R.P.(NPD) No. 384 of 2016 & C.M.P. No. 2062 of 2016

Appellant : Minor Jayalakshmi and Another

Respondent : Seenuvasan and Others

Judgement :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India seeking a direction for numbering the application filed under Section 47 of the Civil Procedure Code in unnumbered E.A.No. Of 2015 in E.P.No.250 of 2009 in O.S.No.31 of 2004 on the file of the Subordinate Court, Kallakurichi.)

1. The revision petitioners, who are 3rd parties to the proceedings, have filed the Civil Revision Petition challenging the order passed by the Subordinate Court, Kallakurichi, returning the Section 47 application filed by them in E.P.No.250 of 2009 in O.S.No.31 of 2004.

2. It is settled position that a 3rd party to the proceedings cannot file an application under Section 47 of the Civil Procedure Code. The provisions of Section 47 are very clear that only parties to the suit or their representatives have got right to file an application under Section 47 of the Civil Procedure Code. Admittedly, the revision petitioners are 3rd parties and therefore, the Execution Court has rightly

returned the application stating that the application is not maintainable.

3. In these circumstances, I do not find any error or irregularity in the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed.

4. Mr.P.Valliappan, learned counsel appearing for the petitioners submitted that liberty may be given to the petitioners to file appropriate application before the Execution Court claiming their rights in the suit property.

5. It is open to the petitioners to file appropriate application before the Execution Court in accordance with law and if such an application is being filed, the Execution Court shall decide the same on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com