

IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
RANIPET

PRESENT:- Thiru.D.Naveen Durai Babu, B.A.,B.L.,L.L.M.,
District Munsif cum Judicial Magistrate,
Ranipet.

Wednesday, the 24th day of April 2024

E.P.No.10/2003

IN

O.S.No.34/1984

CNR No.TNVL14-000003-2003

1. Jeyaraj (Died)
2. Gnanaselvam (Died)
3. Stalin Sampath Raja Gunalan,
4. Gnanadayalan,
5. Jeyanandha Devakumar,
6. Mepil Prasana Kumari,
No. 4, Gollpalayam,
Arcot Town,
Vellore District.

...Petitioners/Plaintiff/DHs

//Versus//

1. A.M. Wilson(Died)
2. Shanthammal, W/o.Wilson,
3. Indra Raj Kumar, S/o. Wilson
No.11/F Kelleys Road,
Ranipet, Ranipet District

...Respondents/Defendants/JD

This petition is coming for final hearing before me on 24.04.2024 in the presence of Mr.S.Ramachandran, Counsel appearing for the Petitioners/DHs and Mr. V.K.D, Counsel appearing for the 1st Defendant and Government Pleader appearing for Respondents/Defendants/JD and upon hearing both side arguments and on perusal of entire case records having stood over for consideration till this day, this court has delivered the following:-

ORDER

The Execution Petition was filed for executing the decree in O.S. No.34/1984 which is the sale deed executed by this court and the same was registered as Document no. 2414/1988 dated 31/08/1988.

Brief averments in the Petition:-

According to the averments in the petition, petitioner/decreed holder S.Jeyaraj filed a suit for specific performance in O.S.No.34/1984. The said suit was decreed and sale deed was executed by this court on 04.02.2002 in EP.No.50/2001. Present EP. No.10/2003 was filed for delivery of possession. 1st respondent/Judgment Debtor Wilson died and legal heir's were brought on records.

It is also submitted that two individuals purchased properties from the above said AM Wilson during the pendency of O.S. No.34/1984, the two suits were numbered as O.S. No's 186/2009 and 187/2009, both the suits were dismissed and as against the same. AS.No. 3/2021 and 4/2021 were filed. AS. No.04/2021 was partly allowed by the Judgment of the Hon'ble Additional District Court, Ranipet dated on 27/3/2023 thereby the Hon'ble Court has held against the petitioner's herein in respect of 2015 ½ sq. feet in S.No.135/1B on the southern side of 4021 sq.feet which is available in Ex.A7.

According to the petitioner, possession of the lands covered under Ex.A7 was not delivered to him by this court. In so far as AS.No.03/2021 the property covered therein is also yet to be delivered to the petitioner/Decree holder. It is also submitted that apart from the pendency of AS. No. 03/2021, no litigations are pending in respect of the property. Hence, petitioner's would pray for delivery of property as prayed in the Execution Petition.

Brief averments in the Counter:-

Respondents counsel endorsed no counter.

Point for consideration:

On consideration of the above said facts and circumstances this court finds that EP. No.10/2003 was filed for delivery of 1 acre 28 ½ cents in Maniyampattu village. This court also finds that two individuals purchased properties during the pendency of the original suit. They filed OS. No.186 and 187 of 2009 before Hon'ble Sub Court, Ranipet. Both the suits were dismissed and has against the same AS.No. 3/2021 and AS.No.4/2021 were filed. Among the appeal suit referred above AS.No.3/2021 is still pending before the Hon'ble Additional District Judge, Ranipet. In so far as AS.No.4/2021 is concerned, Hon'ble Additional District Judge, Ranipet as partly allowed the appeal. In the said Judgment Hon'ble Court found that petitioner herein are not entitled for 2015 ½ sq.feet on the southern side of 4031 sq.feet out of the total extent of 2 acres 63 cents.

Learned counsel for the petitioner would submit that dehors 2015 ½ sq.feet the remaining extent covered in Ex.A7 can be delivered. Learned counsel also filed a memo stating that property covered under AS.No.3/2021 need not be delivered in view of the pendency of AS.No.3/2021.

Considering the above said facts and circumstances of this case, this court finds that properties covered in Ex.A7 excluding 2015 ½ sq.feet and also excluding the properties covered under AS.No.03/2021 can be delivered. In the above said lines petition is allowed.

In fine, the petition is allowed.

Dictated to stenographer directly, typed in her computer corrected and pronounced by me in the Open Court on 24th day of April 2024.

Sd/-*****

District Munsif cum Judicial Magistrate,
Ranipet.

Petitioner side Witness & Exhibits:-

- Nil -

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Respondents side Witness & Exhibits:- - Nil -

Sd/-*****

District Munsif cum Judicial Magistrate,
Ranipet.