

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1404 of 2015 &

M.P.No.1 of 2015

M.Subramanian

... Petitioner

v.

1.N.Gandhi

2.S.Chidambaram

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.08.2014 made in E.A.No.57 of 2012 in E.P.No.80 of 2015 in O.S.No. 94 of 2001 on the file of the District Munsif Judge, Perambalur.

For Petitioner : Mr.K.Sanjay

ORDER

Challenging the fair and final order passed in E.A.No.57 of 2012 in E.P.No.80 of 2015 in O.S.No. 94 of 2001 on the file of the District Munsif Court, Perambalur the defendant/judgment debtor has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No. 94 of 2001 for declaration and recovery of possession. The said suit was decreed in favour of the plaintiff on 10.06.2003. Pursuant to the decree passed by the trial court, the plaintiff filed an Execution Petition in E.P.No.80 of 2005 before the District Munsif Court, Perambalur. In the Execution Petition, the decree holder/plaintiff filed an application in E.A.No.57/2012 to direct the Court Amin to give possession of the property of an extent of Hectare 0.09.0 Acres comprised in SF.No.337/5A. The said application was contested by the judgment debtor. The Execution Court, after taking into consideration the case of both the parties, allowed the application. Aggrieved over the same, the judgment debtor has filed the above Civil Revision Petition.

3. Learned counsel appearing for the petitioner submitted that the decree holder is not entitled to claim possession from the petitioner for the reason that the documents stands in the name of the judgment debtor.

4. It is settled position that the Execution Court cannot go beyond the decree passed by the trial court. That apart, unless the decree passed by the trial court is modified, the Execution Court has to execute the decree, which was passed by the trial court. In the case on hand, when there is a decree passed by the trial court in respect of 22½ cents in SF.No.337/5A, the decree holder/plaintiff is entitled to the said property and therefore, the

Execution Court is bound to execute the decree in respect of the suit property.

5. In these circumstances, the contention raised by the learned counsel for the petitioner cannot be accepted. Therefore, 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. No costs. Consequently, connected miscellaneous petition is closed.

07.04.2015

Index : No
Internet : Yes

Rj

To

The District Munsif Court,
Perambalur.

M. DURAISWAMY,J.,

Rj

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