

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2015

C O R A M

THE HONOURABLE **Mr.JUSTICE K.KALYANASUNDARAM**

CRP.NPD.No.1040 of 2015

and

M.P.No.1 of 2015

1.Krishnavinayagam
2.Thirulokachander
3.Thiruvengadam
4.Thiruvenkatamurthi
5.Thirunavukkarasu

...

Petitioners

Vs.

1.Meenakshi Ammal
2.Anusuya
3.P.M.Rajaram
4.P.M.Jayalapathi
5.P.Chandramani
6.M.Selvaraj
7.P.M.Ramalingam
8.Amudha

...

Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the fair and decretal order of the learned I Additional Subordinate Judge of Cuddalore dismissing E.A.No.168 of 2014 in E.P.No.100 of 1998 in O.S.No.714 of 1993 dated 17.12.2014.

For Petitioners : Mr.D.Baskar

ORDER

This civil revision petition is directed against the order dated 17.12.2014 passed by the First Additional Sub Court, Cuddalore, in E.A.No.168 of 2014 in E.P.No.100 of 1998 in O.S.No.714 of 1993.

2. The petitioners are the defendants in O.S.No.714 of 1993 on the file of the Principal Sub-Court, Cuddalore. The suit was originally instituted by K.Muthukrishnappa Naidu against the petitioners and after the death of the sole plaintiff, the respondents were impleaded as his legal heirs. The suit was filed for recovery of money on the basis of mortgage deed dated 02.08.1990. The trial Court passed a preliminary decree on 04.07.2001.

3. Subsequently, the plaintiff filed I.A.No.162 of 2002 for passing a final decree. Final decree was passed by the trial Court on 17.10.2003. Based on the decree, the respondents have laid an execution petition for sale of the mortgaged property through auction. The petitioners filed E.A.No.168 of 2014 for appointment of an Advocate Commissioner to inspect the properties with a direction to note down the existence of the bore well, motor, electricity service connection and other physical features in the suit property.

4. The allegations of the petitioners is that the respondents have suppressed deliberately the existence of bore well, Motor, electricity service connection and other existing facilities in the suit property and in order to avoid oral and documentary evidence, the Commissioner's report is necessary.

5. The Executing Court, having found that the deed of mortgage contains the property including bore-well, electric motor and service connection, dismissed the application. The contention of the petitioners that the decree holders have suppressed the existence of the facilities was rightly rejected by the Executing Court. Hence, I do not find any reason to interfere with the order of the trial Court.

In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2015

sms

To
I Additional Subordinate Judge of Cuddalore.

K.KALYANASUNDARAM,J.

sms

CRP.NPD.No.1040 of 2015
and
M.P.No.1 of 2015

18.03.2015