

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.12 of 2015
and M.P.No.1 of 2015

Dhanusu

... Petitioner

Vs.

1.Chandrakasu

2.Pandian

3.Sambandam

4.Settu @ Panchanathan

5.Pargunam

6.Vasavi

7.Thangamani

Sudeshan (Died)

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 11.03.2014 in un-numbered E.A.No. /2013 in E.P.No.124 of 2008 on the file of the Principal District Munsif, Cuddalore.

For Petitioner : Mr.R.Manimuthu

For Respondents : Ms.R.Meenal (R1 to R3)

Mr.V.Neethidurai (R4 to R7)

ORDER

The 1st defendant in O.S.No.186 of 1989 on the file of the Sub Court, Cuddalore has filed the above Civil Revision Petition challenging the order passed in an un-numbered E.A.No. /2013 in E.P.No.124 of 2008 on the file of the Principal District Munsif, Cuddalore.

2.Pursuant to the decree passed in O.S.No.186 of 1989, the plaintiffs filed an Execution Petition in E.P.No.124 of 2008. Since the judgment debtor failed to appear before the Execution Court, he was set exparte. Thereafter, the 1st defendant/judgment debtor filed an application to set aside the exparte order. However, the revision petitioner filed an application under Order 9 Rule 7 of the Civil Procedure Code instead of Order 21 Rule 1 of the Civil Procedure Code. The Execution Court dismissed the application stating that the petition shall not lie under Order 9 Rule 7 of the Civil Procedure Code. The application has been rejected even without numbering the same.

3.In the interest of justice, in order to give an opportunity to the revision petitioner, I set aside the order dated 11.03.2014 passed in an un-numbered E.A.No. /2013 in E.P.No.124 of 2008 and remand the matter back to the Principal District Munsif, Cuddalore for fresh disposal. The petitioner/1st defendant shall amend the petition incorporating the correct

provision of law in the petition.

4.The Principal District Munsif, Cuddalore is directed to dispose of the application, on merits and in accordance with law, within three weeks from the date of receipt of a copy of this order. The petitioner shall carry out the amendment in the petition within three days from the date of receipt of a copy of this order.

5.The Execution Court is also directed to dispose of the Execution Petition in E.P.No.124 of 2008 within two months from the date of disposal of the application filed by the petitioner.

6.With this observation, the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

10.06.2015

Note: Issue order copy by 11.06.2015.

To

The Principal District Munsif,
Cuddalore.

M.DURAI SWAMY, J.
va

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