

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

Coram:

THE HONOURABLE Mrs.JUSTICE ARUNA JAGADEESAN

**C.R.P.(NPD).No.3817 of 2011
and
M.P.No.1 of 2011**

Padmavathy Ammal

.. Petitioner

Vs.

G.Boominathan

.. Respondent

Prayer

Civil Revision Petition filed under Section 115 of C.P.C. against the order dated 10.01.2011 in E.A.No.25 of 2009 in E.P.No.33 of 2006 in O.S.No.70 of 2004 on the file of Sub Court, Ponneri.

For Petitioner : Mr.N.Anand Venkatesh

For Respondent : Mr.R.Krishnaswamy

ORDER

This civil revision petition is filed against the order, dated 10.01.2011 passed by the learned Sub Judge, Ponneri, in E.A.No.25 of 2009 in E.P.No.33 of 2006 in O.S.No.70 of 2004,

refusing to set aside the exparte order passed against the petitioner on 20.11.2006 in E.P.No.33 of 2006.

2. The respondent herein had filed a suit for specific performance and an exparte decree was passed against the petitioner on 27.04.2005. It appears that the petitioner had filed an application to set aside the exparte decree before the trial Court and the same is pending. In the meanwhile, the respondent herein filed execution proceedings in E.P.No.33 of 2006 in O.S.No.70 of 2004 for execution of the decree on 24.02.2006. In the execution proceedings, an exparte order was passed against the petitioner since she failed to appear in the execution proceedings. Thereafter, she had filed an application to set aside the exparte order passed in E.P.No.33 of 2006 in E.A.No.25 of 2009. The said petition was dismissed, against which, the present revision has been filed.

3. It is brought to the notice of this Court that after the petitioner remained exparte in the execution proceedings, the sale deed was ordered to be registered and an order of delivery was also passed on 19.08.2008.

4. Learned counsel for the petitioner submitted that no delivery of possession has been effected so far. The learned counsel contended that the cause shown by the petitioner is genuine

and there is no lack of bonafide. Therefore, he prayed that she may be given an opportunity to contest the execution proceedings.

5. I am unable to accept the contention made by the learned counsel for the petitioner. The learned trial Judge, taking note of the facts has held that the petitioner was not diligent in pursuing the execution proceedings. The learned trial Judge has not believed the plea of illness as there was no proof filed before the Court. In such circumstances, I do not find any reason to interfere with the impugned order passed by the trial Court. Hence, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.02.2015

Index:Yes/No
Internet:Yes/No
vsi

To

The Sub Judge, Ponneri.

ARUNA JAGADEESAN.,J.

Vsi

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