

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NO.269 OF 2015
AND M.P.NO.1 OF 2015

A.Sarojini ... Petitioner

Vs.

S.Charubala ... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 01.07.2014 passed in Transfer O.P.No.302 of 2013 by the learned Principal District Judge, Coimbatore.

For Petitioner : Mr.P.Valliappan
For Respondent : Mr.A.Thiyagarajan

ORDER

This Civil Revision Petition is directed against the order dated 01.07.2014 passed in Transfer O.P.No.302 of 2013 by the learned Principal District Judge, Coimbatore.

2.The respondent had instituted the suit in O.S.No.1759 of 1996 against the petitioner for recovery of possession. The suit was decreed on 04.11.2003. The appeal preferred by the defendant in A.S.No.35 of 2004 was allowed on 30.06.2004.

3.Aggrieved by the order, the plaintiff filed a Second Appeal in S.A.No.360 of 2007 and the same was allowed by this Court on 26.03.2012. Based on the decree, the respondent levied an execution petition in E.P.No.104 of 2012.

4.In the execution proceedings, the petitioner filed an application in E.A.No.7 of 2013 under Order XXI Rule 97 of the Code of Civil Procedure to resist the execution of the decree.

5.Thereupon, the petitioner filed a petition in Transfer O.P.No.302 of 2013 before the Principal District Judge, Coimbatore, alleging that the Executing Court has not followed the procedure. The allegation made in the affidavit is that the Executing Court had directed the respondent to argue the petition before taking evidence of the petitioner. The learned Principal District Judge dismissed the petition on 01.07.2014. Aggrieved by the order, the present Civil Revision Petition is filed.

6.Heard Mr.P.Valliappan, learned counsel for the petitioner and Mr.A.Thiyagarajan, learned counsel for the respondent.

7.The only allegation made in the affidavit filed in support of the transfer original petition is that the Executing Court has not followed the procedure, before adjudicating the petition filed under Order XXI Rule 97 of the Code of Civil Procedure. Admittedly, the application filed by the petitioner is still pending. The learned Principal District Judge, Coimbatore, rightly dismissed the transfer original petition holding that the petitioner has not made out any ground for transfer. Hence, I do not find any illegality or irregularity in the order impugned in this Civil Revision Petition.

8.In the result, this Civil Revision Petition is dismissed. The Executing Court shall dispose of E.A.No.7 of 2013 in E.P.No.104 of 2012, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2015

Index : Yes/No
Internet : Yes/No
TK

K.KALYANASUNDARAM, J.

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To

The Principal District Judge
Coimbatore.

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