

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(NPD)No.2751 of 2015

Aravindanayagi (died)

1.Vatsala

... Petitioner

vs.

1.Govindarajalu

2.Vijayakumar

3.Jayachandran

4.Bhaktavatsalam

5.Jayaraman

6.Jothi Ammal

7.Sivakozhundu Chettiar

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the frequent adjournments and failure to dispose off E.P.5/2012 in O.S.No.26 of 2005 on the file of the Principal District Munsif-cum-Judicial Magistrate, Parangipettai.

For Petitioner : Ms.Manjula Baskar

ORDER

The revision petitioner is the plaintiff in O.S.No.26 of 2005 on the file of the District Munsif-cum-Judicial Magistrate, Parangipettai.

2. The suit was filed for declaration of title and for recovery of possession, as against the defendants therein. After contest, the suit was decreed as prayed for. Based on the said decree, it is stated that the petitioner filed E.P.No.5 of 2012 in O.S.No.26 of 2005.

3. The revision petitioner filed a memo dated 07.10.2014 before the Execution Court stating that an appeal was filed by defendants 4 and 5 relating to Item 4 of the suit property in A.S.No.26 of 2013 before the Sub-Court, Chidambaram. It is stated in the memo that though Item 4 is also included in the Execution Petition, she did not press for execution, as against Item 4 and she could file a separate petition after disposal of A.S.No.26 of 2013, if A.S.No.26 of 2013 is dismissed.

4. It is useful to extract the memo dated 07.10.2014 filed by the revision petitioner:-

"The suit was filed for declaration of title and for recovery of possession as against the respondents herein. The respondents herein were in possession of different extents in different survey numbers. After contest the suit was decreed as prayed for. Based on the decree, I have filed the above execution petition.

As against the decree and judgment, the defendants 4 and 5 alone have preferred an appeal. They claim right, though illegal, with respect to item 4 of the suit property alone. The other defendants claims right with respect to other items. However, the claim of all the defendants were rejected and the suit decreed.

As such A.S.26/2013 in Sub Court, Chidambaram is only against the 4th item to the suit with respect to other properties there is no appeal.

The petitioner will file separate E.P. regarding item 4. The petitioner is giving up item 4 from this E.P. Hence, delivery may be ordered regarding all items, except item 4. That is delivery may be ordered regarding items 1 to 3 and 5 to 11."

5. It is the grievance of the petitioner that even after filing of the memo E.P.No.5 of 2012 in O.S.No.27 of 2005 is still pending.

6. According to the learned counsel for the petitioner, the judgment and decree passed in O.S.No.26 of 2005 has attained finality in respect of all the properties covered by the plaint, except Item 4, which is the subject matter in A.S.No.26 of 2005.

7. In these circumstances, this revision petition is filed seeking for a direction to dispose of E.P.No.5 of 2012 within a stipulated period.

8. Heard the learned counsel for the petitioner.

9. Taking into account the aforesaid facts, the Civil Revision Petition is disposed of by directing the District Munsif-cum-Judicial Magistrate at Parangipettai to consider the memo dated 07.10.2014 filed by the petitioner

D.HARIPARANTHAMAN,J.,

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and if the contents are true, the learned District Munsif is directed to dispose of the E.P.No.5 of 2012, within a period of three months from the date of receipt of a copy of this order. No costs.

11.08.2015

Index : Yes/No
Internet : Yes

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To

The Principal District Munsif-cum-Judicial Magistrate,
Parangipettai.

C.R.P.(NPD)No.2751 of 2015