

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.3090 of 2015 &
M.P.No.1 of 2015

B.Gnanasekaran

... Petitioner

v.

1.P.M.Sebastian

2. Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
Egmore,
Chennai – 600 008
Rep. By its Member Secretary

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 30.06.2015 made in E.P.No.1322 of 2014 in O.S.No.13396 of 2009 on the file of X Asst. City Civil Court at Chennai.

For Petitioner : Mr.K.Seetha Ram

For Respondent : Mr. T.V.Ramanujam, Sr. Counsel
for Mr.C.Rajan

ORDER

Challenging the order passed in the Execution Petition in E.P.No.1322 of 2014 in O.S.No.13396 of 2009 on the file of X Assistant Judge, City Civil Court, Chennai, the 1st defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No. 13396 of 2009 for recovery of possession.

3. By judgment and decree dated 3.2.2012, the Trial Court decreed the suit. Against which, the 1st defendant preferred an appeal in A.S.No.34 of 2013 on the file of XVI Assistant Judge, City Civil Court, Chennai. The Lower Appellate Court also confirmed the judgment and decree passed by the Trial Court and dismissed the appeal on 29.01.2015, granting three months time to vacate the premises.

4. Pursuant to the decree passed in O.S.No.13396 of 2009, the plaintiff filed an Execution Petition in E.P.No.1322 of 2014 to take possession of the property.

5. Admittedly, the 1st defendant contested the suit as well as the First Appeal in A.S.No.34 of 2013, which was dismissed on 29.01.2015. Since the decree sought to be executed is less than two years, the Execution Court

had no option except to allow the Execution Petition. It is need less to say that the Execution Court is bound by the decree passed in the suit.

6. Learned counsel appearing for the revision petitioner submitted that the revision petitioner has filed an application under section 47 of CPC, however, the said application was numbered as E.A.No.342 of 2015 after the disposal of the Execution Petition on 30.6.2015.

7. Since no application was pending on the date of passing of the order on 30.06.2015, the Execution Court has rightly allowed the Execution Petition.

8. In these circumstances, I do not find any reason to interfere with the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes
Rj

31.07.2015

To
The X Assistant Judge,
City Civil Court, Chennai,

M. DURAISWAMY,J.,

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