

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3512 of 2015

&

M.P.No.1 of 2015

1.B.Malakondiah

2.B.Narasimmalu

... Petitioners/Judgment
Debtors/Defendants

Vs.

Mrs.Thiruppamma

... Respondent/Decree
holder/Plaintiff

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 04.08.2015 passed in E.P.No.2158 of 2010 in O.S.No.2822 of 1999 on the file of the X Assistant City Civil Court, Chennai.

For Petitioners : Mr.S.Ambigapathi

For Respondent : Mr.Anil Relwani,
for M/s.R.Muthamizh

O R D E R

सत्यमेव जयते

The revision petitioners are the judgment debtors in O.S.No.2822 of 1999 before the XV Assistant City Civil Court, Chennai.

2. The suit was decreed on 31.01.2005 and the Trial Court had held that the decree holder is the absolute owner of the 'B' scheduled property and further a direction was issued to the judgment debtor to vacate and hand over the 'B' scheduled property to the decree holder.

3. Thereafter, the judgment debtor filed an appeal in A.S.No.537 of 2005 and the same was dismissed on 06.12.2006 by confirming the judgment and decree passed in O.S.No.2822 of 1999.

4. While so, the respondent who is the decree holder filed an Execution Petition to execute the decree passed in O.S.No.2822 of 1999. The Trial Court passed an order dated 04.08.2015 allowing the execution petition in E.P.No2158 of 2010 in O.S.No.2822 of 1999. The present Civil Revision Petition is preferred against the aforesaid order dated 04.08.2015.

5. Heard the learned counsel appearing for the petitioner.

6. The learned counsel for the petitioner would submit that a second appeal has been filed against the judgment and decree dated 06.12.2006 made in A.S.No.537 of 2005. However, he has admitted that there is no interim order in the second appeal.

7. At this juncture, it would be relevant to extract the relevant portion of the order dated 04.08.2010 made in E.P.No.2158 of 2010 in O.S.No.2822 of 1999.

"The court on perusal of the case records finds that in the decree in O.S.No.2822/1999 it has been declared that the decree holder is absolute owner of 'B' scheduled property and further directed the judgment debtors herein to vacate and handover the 'B' schedule property to the decree holder. Thus in the suit after considering the description of 'A' and 'B' schedule properties, the trial Court has passed judgment and decree in O.S.No.2822/1999. Furthermore as against the said judgment, the judgment debtors herein have preferred appeal in A.S.No.537/2005 and the same has been dismissed on 06.12.2006 by confirming the judgment and decree passed in O.S.No.2822/1999. Therefore in the said context this court finds that the contention of judgment debtors that the 'B' schedule property description is incorrect one and the decree is inexecutable one is found to be totally unsustainable and unacceptable one.

This court finds that as on date the decree passed in O.S.No.2822/1999 has not been stayed or set aside by the appellate Court and when that being so this Court finds that the petition filed by the decree holder deserves to be allowed."

8. In view of the aforesaid reasonings given by the Trial Court, I am not inclined to interfere with the order passed by the Trial Court. Accordingly, the Civil Revision Petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

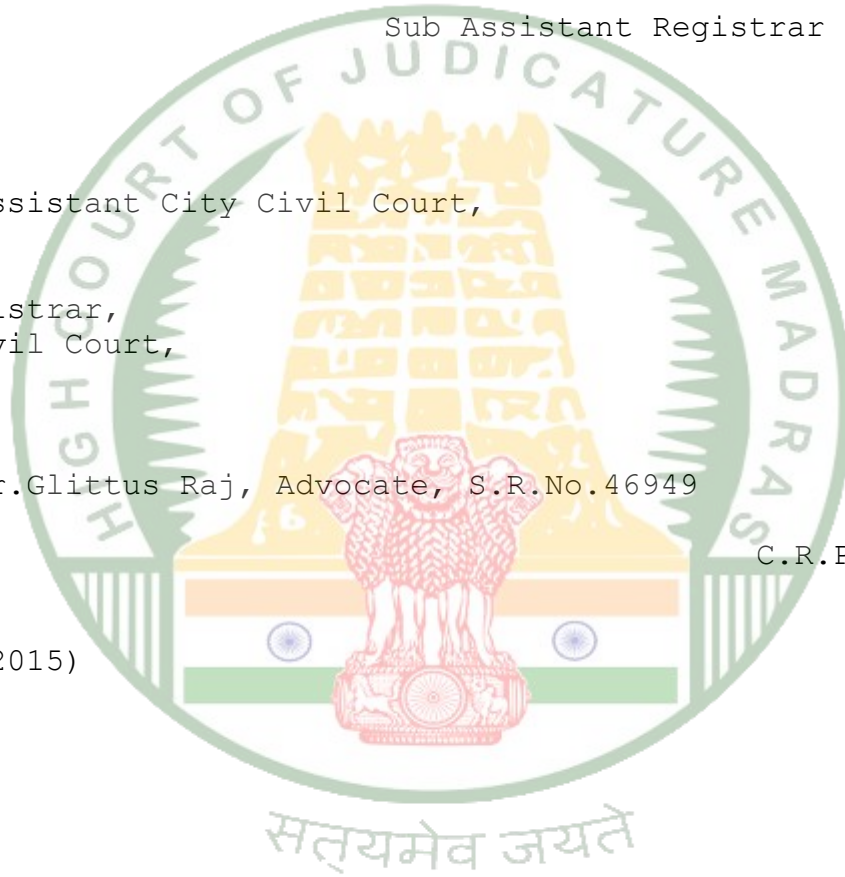
1.The X Assistant City Civil Court,
Chennai.

2.The Registrar,
City Civil Court,
Chennai.

+1cc to Mr.Glittus Raj, Advocate, S.R.No.46949

C.R.P.No.3512 of 2015

GJ(CO)
CA(14/09/2015)



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