

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM

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

C.R.P (NPD) No.4180 of 2015

and M.P.No.1 of 2015

1.S.Babu

2.A.Venkatesan

3.R.Rajendran

4.Shankar

... Petitioners

vs.

1.S.Muthulakshmi

2.T.Ramu

3.M/s.Indian Fancy Stores,
rep. by its Proprietor

4.M/s.Manidhaneyam Finance,
rep. by its Proprietor

5.M/s.Rajafinance Corporations,
rep. by its Proprietor

6.M/s.Mani Electricals,
rep. by its Proprietor.

.... Respondents

Civil revision petition has been filed to direct the learned IV Additional District Judge, Ponneri to number and dispose the unnumbered E.A. in E.P.No.3 of 2013 in O.S.No.116 of 2007 on his file, in returning the petition filed by the petitioners under section 47 read with Order 21 Rule 97 C.P.C.

For Petitioners : Mr.N.Anand Venkatesh

ORDER

The revision petitioners were the tenants in the suit schedule properties in O.S.No.116 of 2007 on the file of the learned IV Additional District Judge, Ponneri. It is a partition suit.

2. According to the revision petitioners, they were the tenants under the defendants in O.S.No.116 of 2007. It is submitted by the learned counsel appearing for the revision petitioners that the defendants remained exparte and a preliminary decree was passed and an exparte final decree was also passed in the said suit. Armed with the said final decree, the plaintiff has filed E.P.No.3 of 2013 in O.S.No.116 of 2007 and took possession on 14.9.2015 pursuant to the order passed in E.P.No.3 of 2013. In these circumstances, the revision petitioners filed an application in the execution petition in E.P.No.3 of 2013 in O.S.No.116 of 2007 under Section 47 read with Order 21 Rule 97 C.P.C. But, the said application was returned by the executing Court on 22.9.2015 on the ground that delivery had already effected.

3. According to the learned counsel appearing for the revision petitioners, the revision petitioners are entitled to re-delivery of possession under Order 21 Rules 97 and 100 C.P.C. in proper case. Hence, the Trial Court committed an error in returning the application.

4. In these circumstances, I am of the view that the Trial Court has committed an error in not numbering the application filed by the revision petitioners.

5. Hence, a direction is issued to the learned IV Additional District Judge, Ponneri to number the application filed by the revision petitioners in the execution petition in E.P.No.3 of 2013 in O.S.No.116 of 2007 and dispose of the same on merits and in accordance with law.

6. The civil revision petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

27.10.2015

Index:Yes/No
sbi

Note:

The Registry is directed to return the original application filed by the revision petitioners before the learned IV Additional District Judge, Ponneri, to the learned counsel appearing for the revision petitioners after getting necessary endorsement.

To

The IV Additional District Judge,
Ponneri.

D.HARIPARANTHAMAN, J

sbi

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