

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

**C.R.P.(NPD).Nos.4584 & 4585 of 2015
and M.P.Nos.1 & 1 of 2015**

K.Rajagopal

... Petitioner in both C.R.Ps

Vs.

M.Sankarayya Naidu

... Respondent in both C.R.Ps

Civil Revisions Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal orders dated 15.10.2015 passed in E.A.Nos.57 & 59 of 2015 in E.P.No.25 of 2004 in O.S.No.207 of 1991 on the file of the District Munsif, Ambattur.

For Petitioner : Mr.C.Vigneswaran
(in both C.R.Ps)

C O M M O N O R D E R

Challenging the fair and final order passed in E.A.Nos.57 & 59 of 2015 in E.P.No.25 of 2004 in O.S.No.207 of 1991 on the file of the District Munsif, Ambattur, the 3rd Judgment Debtor has filed the above Civil Revision Petitions.

2. In the year 1991, the respondent/plaintiff filed the suit in O.S.No.207 of 1991 for specific performance. After contest, the trial Court decreed the suit on 11.06.2001.

3. The learned counsel for the petitioner submitted that the defendants did not file any appeal as against the judgment and decree passed in O.S.No.207 of 1991. Therefore, the judgment and decree passed in O.S.No.207 of 1991 has become final.

4. Pursuant to the decree passed in O.S.No.207 of 1991, the plaintiff filed an Execution Petition in E.P.No.25 of 2004 for executing the decree. The revision petitioner is the 3rd Judgment Debtor, who is the son of the defendant. Since the defendant had died after the decree, the Execution Petition was filed as against the legal representatives of the deceased defendant. The Judgment Debtors filed their counter and contested the Execution Petition. Subsequently, one of the Judgment Debtor also filed an application under Section 47 of the Civil Procedure Code, which according to the learned counsel for the petitioner was dismissed and the said order was confirmed in the Civil Revision Petition filed by the party. Now, after

the dismissal of the application filed under Section 47 of the Civil Procedure Code, the 3rd Judgment Debtor filed applications in E.A.Nos.57 & 59 of 2015 seeking permission of the Court to file additional counter in the Execution Petition and seeking for appointment of Advocate Commissioner. In the proceedings, which is pending for nearly 25 years, that too, after the dismissal of the Section 47 application filed by the parties, the present applications were filed by the 3rd Judgment Debtor seeking permission of the Court to file additional counter and seeking for appointment of Advocate Commissioner.

5. When the Schedule of property mentioned in the decree is very clear, I am of the view that there is no necessity for appointing an Advocate Commissioner to measure the suit property. The plaintiff is entitled to take possession as per the decree passed in O.S.No.207 of 1991. The present applications were filed by the Judgment Debtor only to drag on the proceedings. The Execution Court has rightly dismissed both the applications.

6. In these circumstances, I do not find any error or irregularity in the orders passed by the Execution Court. The Civil Revision Petitions are devoid of merits and the same are liable to be dismissed. Accordingly, the Civil

Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
va

01.12.2015

To

The District Munsif,
Ambattur.

M.DURAIWAMY,J.
va

**C.R.P.(NPD).Nos.4584 & 4585 of 2015
and M.P.Nos.1 & 1 of 2015**

01.12.2015