

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4587 of 2015 &
M.P.No.1 of 2015

Adil Sait

... Petitioner

v.

1.C.Shankar Rao
2.Narayanan
3Jainulabdeen

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 23.09.2015 passed in E.A.No.79 of 2014 in E.P.No.35 of 2013 in R.C.O.P.No.9 of 2003 on the file of District Munsif at Udhagamandalam.

For Petitioner : Mr.G.Palani

ORDER

Challenging the order passed in E.A.No.79 of 2014 in E.P.No.35 of 2013 in R.C.O.P.No.9 of 2003 on the file of District Munsif Court, Udhagamandalam, the petitioner, who is the third party to the proceeding, has filed the above Civil Revision Petition .

2. Pursuant to the decree granted in R.C.O.P.No.9 of 2003, the 1st respondent-landlord filed an Execution Petition in E.P.No.35 of 2013 to execute the decree in the said Execution Petition.

3. The revision petitioner filed an application under Order 21, Rule 97, 99(2) & 101 and under section 151 of CPC in E.A.No.79 of 2014 to conduct enquiry in the above application and dismiss the eviction petition filed by the decree holder-landlord. Since the revision petitioner remained absent, the Execution Court dismissed the said application for default. Thereafter, the revision petitioner filed an unnumbered application under Order 21 Rule 106 CPC to restore the application in E.A.No.79 of 2014, which was dismissed for default on 23.09.2015

3.It is settled position that as against the order passed in an application filed under Order 21, Rule 97 of C.P.C , only an appeal remedy is

available to the revision petitioner. Further, since the revision petitioner has filed an application under Order 21 Rule 106 of C.P.C. to restore the application in E.A.No.79 of 2014, I am of the considered view that the present revision petition challenging the order passed in E.A.No.79 of 2014 is liable to be dismissed. In these circumstances, it is open to the petitioner to work out his remedy in the application filed under Order 21 Rule 106 of CPC and the Execution Court shall dispose of the said application on merits and in accordance with law.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

07.12.2015

Note : Issue copy of the order by 08.12.2015

Rj

To

The District Munsif Court,
Udhagamandalam.

M. DURAISWAMY,J.,

Rj

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