

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4588 of 2015 &

M.P.No.1 of 2015

1.Kandasamy

2.Suseela Ammal

... Petitioners

v.

Ganapathi Gounder (deceased)

1.Kuppammal

2.Jayalakshmi

3.Vijaya

4.G.Palani

5.Nalini

6.Gopi

7.Balaraman

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree dated 08.09.2015 passed in E.A.No.88 of 2014 in E.A.No.47 of 2014 in E.P.No.21 of 2012 in O.S.No.1030 of 2009 on the file of District Munsif Court, Katpadi.

For Petitioner : Mr.T.Sreelekha

ORDER

Challenging the fair and final order passed in E.A.No.88 of 2014 in E.A.No.47 of 2014 in E.P.No.21 of 2012 in O.S.No.1030 of 2009 on the file of District Munsif Court, Katpadi, the judgment debtors have filed the above Civil Revision Petition.

2. Originally, the plaintiff filed the suit in O.S.No.90 of 1989 on the file of Sub Court, Vellore for specific performance. The said suit was transferred to the file of District Munsif Court, Katpadi and renumbered as O.S.No.1030 of 2009.

3. After contest, the suit was decreed in favour of the plaintiff.

4. The learned counsel appearing for the petitioners submitted that the defendants have not challenged the decree passed in the suit and therefore, the decree passed by the Trial Court has become final.

5. Pursuant to the decree passed in O.S.No.1030 of 2009, the decree holders have filed an Execution Petition in E.P.No.21 of 2012 for executing the decree. Subsequently, sale deed was also executed in favour of the decree holders. Thereafter, the decree holders filed an application in E.A.No.47 of 2014 for taking delivery of possession. During the pendency

of the said application, the judgment debtors filed an application in E.A.No.88 of 2014 under section 47 of the Civil Procedure Code stating that a draft sale deed was furnished to the judgment debtors prior to the execution of the sale deed. The said application was contested by the decree holders.

6. The Execution Court, taking into consideration the case of both the parties and relying upon a judgment reported in [**AIR 1990 Punjab and Haryana 231 [Darshan Kaur v. Gurdial Singh and others]**], observed that there is no necessity for furnishing a copy of the sale deed to the judgment debtors and the same is not mandatory. The Execution Court also observed that the judgment debtors were contesting the Execution Petition by engaging a counsel, who was also appearing in the matter regularly. Further, the Execution Court observed that the judgment debtors did not raise any objection with regard to the non furnishing of the draft sale deed. The suit was filed in the year 1989 and ever after a lapse of more than 26 years the decree holders are not in a position to enjoy the fruits of the decree. The Execution Court also observed that even when the matter was posted for production of the draft sale deed, the Execution Petition was adjourned for more than 10 occasions and on all these occasions, the judgment debtors did not raise any objection with regard to the draft sale deed. Taking into consideration all these aspects, the Execution Court has rightly dismissed the application.

7. 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.

Index : Yes/No

11.12.2015

Rj

To

The District Munsif Court,
Katpadi.

M. DURAISWAMY,J.,

Rj

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