

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.906 of 2015

and

M.P.No.1 of 2015

1.Selvi
2.Vijaya
3.Ranganayaki

... Petitioners/Respondents 2,4,5/
Defendants 2,4,5

Vs.

Annapooraniammal ... Respondent/Petitioner/Plaintiff

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 18.08.2014 made in E.P.No.30 of 2011 in O.S.No.15 of 2006 on the file of the District Munsif Court, Dharapuram.

For Petitioners: Mr.D.Krishnakumar

For Respondent : Mr.M.Guruprasad

O R D E R

The revision petitioners are the defendants in O.S.No.15 of 2006 on the file of the District Munsif Court, Dharapuram. The respondent herein is the plaintiff therein.

2. The aforesaid suit in O.S.No.15 of 2006 was decreed exparte on 18.11.2010. The petitioners herein filed an application in I.A.No.229 of 2015 to condone the delay of 479 days in filing the application to set aside the exparte decree made in O.S.No.15 of 2006.

3. It is not in dispute that on 23.07.2015, the application in I.A.No.229 of 2015 was allowed on condition that the revision petitioner shall pay costs of Rs.2000/- to the respondent herein. While so, the respondent herein filed an application in I.A.No.858 of 2015 in I.A.No.229 of 2015 in O.S.No.15 of 2006 alleging that the application in I.A.No.229 of 2015 was allowed without hearing the respondent herein.

4. In the said circumstances, the respondent herein filed E.P.No.30 of 2011 in O.S.No.15 of 2006 and the same was ordered on 18.08.2014. However, it is stated that the delivery of possession is yet to take place.

5. In view of the aforesaid development, I am of the view that the order dated 18.08.2014 made in E.P.No.30 of 2011 is liable to be set aside and the Trial Court is directed to keep E.P.No.30 of 2011 pending, till the disposal of I.A.No.858 of 2015 in I.A.No.229 of 2015 in O.S.No.15 of 2006. If the application in I.A.No.858 of 2015 is allowed and consequently, the Trial Court dismisses the application in I.A.No.229 of 2015, then the Trial Court shall proceed with the Execution Petition in E.P.No.30 of 2011.

6. Thus, while setting aside the order dated 18.08.2014 made in E.P.No.30 of 2011 in O.S.No.15 of 2006, a direction is issued to the Trial Court to pass final orders in I.A.No.858 of 2015 within a period of four weeks from the date of receipt of a copy of this order. If the application in I.A.No.858 of 2015 is allowed and I.A.No.229 of 2015 is thereby dismissed, the Trial Court shall thereafter proceed with E.P.No.30 of 2011 in O.S.No.15 of 2006. Otherwise, the Trial Court cannot proceed with the E.P and the parties can await the disposal of the suit in O.S.No.15 of 2006 in the manner known to law.

7. The Civil Revision Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pgp
To
The District Munsif Court,
Dharapuram.

+1cc to Mr.M. Guruprasad, Advocate, S.R.No.48331
+1cc to Mr.D. Krishnakumar, Advocate, S.R.No.47970

MSM(CO)
EU(11/09/2015)

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