



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.03.2015
CORAM

THE HONOURABLE MRS.JUSTICE PUSHPASATHYANARAYANA

WEB COPY

C.R.P. (NPD) No.2428 of 2014
and
M.P. (MD) Nos.2 of 2014 and 1 of 2015

Valliammal .. Petitioner/Respondent/Defendant
Vs.

Samudhirapandi (died)

1. Ramalakshmi
2. Balamurugan
3. Ananthi
4. Muneeswari
5. Ananth Durairaj
6. Venkatesh ... Respondents/Petitioners/
Plaintiff & 3rd Parties

Prayer: Petition is filed under Section 115 of the Code of Civil Procedure to set aside the delivery order dated 10.09.2014 in E.P.No.12 of 2014, in O.S.No.188 of 2006, on the file of the Principal District Munsif Court, Thoothukudi.

For Petitioner : Mr.K.Chengiz Khan

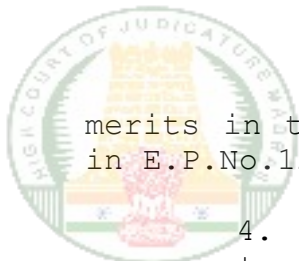
For Respondents : Mr.S.Meenakshi Sundaram

ORDER

The Civil Revision Petition is filed challenging the delivery of possession in E.P.No.12 of 2014 in O.S.No.188 of 2006.

2. Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

3. The Judgment Debtor claims to have filed an appeal against the decree, which was passed on 06.10.2009. The appeal was also numbered as A.S.No.28 of 2010, on the file of the Subordinate Court, Tuticorin. Pending the appeal, the Decree Holder died. The petitioner was directed to take steps to bring on record the legal representatives of the deceased Decree Holder. But the revision petitioner had not taken any steps within the time stipulated, despite several opportunities given by the Court. Therefore, the appeal itself was dismissed for default for not taking steps, on 07.09.2011. Even thereafter, the respondent had not shown any interest in restoring the appeal and obtaining a stay. As there was no impediment in proceeding with the execution petition, the Decree Holder levied execution petition and obtained an order of delivery of possession on 10.09.2014. There is no flaw or technical defect on the



merits in the order passed by the Principal District Munsif, Thoothukudi in E.P.No.12 of 2014 for this Court to interfere with.

4. However, the learned Counsel appearing for the petitioner represents that he may be given a chance to conduct the appeal, which had been filed on time, but it had been dismissed for non-prosecution for not taking steps and the application for restoration is already numbered as I.A.No.323 of 2014, which is also pending for counter of the respondents.

5. Under these circumstances, the time granted for recovery of possession is only extended by this Court and there shall be an order of stay of recovery of possession till 30-April-2015, to enable the petitioner to restore the appeal on file and get the same disposed of on or before 30-April-2015. If there is no progress in the same, the order passed on 10.09.2014 by the Principal District Munsif, Thoothukudi in E.P.No.12 of 2014 can be put into operation.

6. With these observations, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

\\True copy\\

Sub Assistant Registrar

To

The Principal District Munsif Court, Thoothukudi.

+1cc TO MR.G.PRABHU RAJADURAI, ADVOCATE SR.NO.9879

+1CC TO MR.S.MEENAKSHI SUNDARAM, ADVOCATE SR.NO.9973

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and
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