

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)Nos.1107 & 1108 of 2016 &

C.M.P.No.6081 of 2016

in C.R.P.(NPD)No.1107 of 2016

R.Pappammal

... Petitioner in both CRPs

v.

1.R.Murthy

2.P.S.Kumaran

... Respondents in both CRPs

C.R.P.(NPD)No.1107/2016 filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 17.11.2015 passed by the Registrar, Small Causes Court, Chennai in E.A.No.28 of 2015 in E.A.No.59 of 2014 in E.P.SR.No.56912A of 2013 in Ejectment Suit No.11 of 1992.

C.R.P.(NPD)No.1108/2016 filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 17.11.2015 passed by the Registrar, Small Causes Court, Chennai in E.A.No.59 of 2014 in E.P.SR.No.56912A of 2013 in Ejectment Suit No.11 of 1992.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Ms.Kanimozhi Mathi

COMMON ORDER

By consent of both the learned counsels, both the Civil Revision Petitions are disposed of by this common order.

2. Challenging the fair and final orders passed in E.A.No.59 of 2014 in E.P.SR.No.56912A of 2013 in Ejectment Suit No.11 of 1992 and E.A.No.28 of 2015 in E.A.No.59 of 2014 in E.P.SR.No.56912A of 2013 in Ejectment Suit No.11 of 1992 on the file of Registrar, Small Causes Court, Chennai, the judgment debtor has filed the above Civil Revision Petitions.

3.The respondents have purchased the suit property from the legal heirs of deceased S.P.Ramaiya Nadar on 03.03.2010 under a registered sale deed. Originally, the plaintiff S.P.Ramaiya Nadar filed the Ejectment Suit in the year 1992 in Ejectment Suit No.11 of 1992 for taking possession of the suit property.

4. After contest, the suit was decreed on 19.04.2004. As against the decree, the judgment debtor did not file any appeal, therefore, the decree passed by the Trial Court has become final.

5. Pursuant to the decree passed in the Ejectment Suit No.11 of 1992, the decree holders filed an Execution Petition in E.P.No.10 of 2015. In the

said Execution Petition, the respondents, who had purchased the property in the year 2010, have also filed an application under Order 21, Rule 16 of the Civil Procedure Code to permit them to proceed with the Execution Petition and evict the judgment debtor from the suit property.

6. The revision petitioner-judgment debtor filed an application in E.A.No.28 of 2015 in E.A.No.59 of 2014 under Order 21, Rule 26 of Civil Procedure Code to stay all further proceedings in E.A.No.59 of 2014 till the disposal of the suit in O.S.No.2383 of 2015 on the file of XIV Assistant Judge, City Civil Court, Chennai. The suit in O.S.No.2383 of 2015 was filed by the judgment debtor to declare the sale deed 03.03.2010 executed in favour of the first respondent as null and void and for permanent injunction.

7. The revision petitioner contended that since she has filed a suit to set aside the sale deed executed in favour the first respondent as null and void, the execution proceedings may be stayed till the disposal of the suit in O.S.No.2383 of 2015.

8. In E.A.No.59 of 2014, the respondents have stated that since they have purchased the property on 3.3.2010 from the plaintiff in the Ejectment Suit, they may be permitted to prosecute the Execution Petition and evict the revision petitioner from the suit.

9. Though the suit was decreed on 30.4.2014, the suit in O.S.No.2383 of 2015 was filed by the judgment debtor only in the year 2015 to set aside the sale deed. No doubt, the purchase was made by the respondents only the year 2010. Even then, the judgment debtor has not taken any steps to file the suit immediately after the purchase made by the respondents. The Execution Petition was filed in the year 2013 and numbered in 2015. Thereafter, the judgment debtor has field the suit. The proceedings commenced in the year 1992 and after nearly 25 years, the plaintiff has not obtained the possession of the suit property. The petitioner has not made out a case for staying the Execution Petition in E.A.No.28 of 2015. In these circumstances, the Execution Court has rightly dismissed the petition.

10. So far as the petition in E.A.No.59 of 2014 is concerned, since the respondents have purchased the property from the plaintiff in Ejectment Suit No.11 of 1992 in the year 2010, they were rightly permitted to prosecute the Execution Petition by the Execution Court. In these circumstances, I do not find any error or irregularity in the orders passed by the Execution Court. The Execution Court has rightly dismissed E.A.No.28 of 2-15 and allowed E.A.No.59 of 2014.

11. In view of the above, both the Civil Revision Petitions are dismissed. However, it is open to the petitioner to workout her remedy in the case of she is succeeding in the suit in O.S.No.2383 of 2015. N costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

06.06.2016

Note : Issue copy of the order by 07.06.2016

Rj

To

The Registrar,
Small Causes Court,
Chennai

M. DURAISWAMY,J.,

Rj

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