

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.10.2016

Coram

The Hon'ble Mr.Justice M.DURAIWAMY

CRP(NPD)NO.3797 of 2015
and M.P.No.1 of 2015

M/s Barton Trust
A registered Partnership Firm
Having its registered Office at
"Fair Rose", Porter Avenue,
Coonoor, The Nilgiris,
rep. By its Partner
Mrs.Jessy Jacob

...Petitioner

Vs

D.K.Bhaskaran

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the E.A.No.18 of 2013 in E.P.No.3 of 2012 in O.S.No.1 of 2005 on the file of the Court of District Judge, The Nilgiris, Ootakamund.

For Petitioner : Ms.G.Sumitra
For Respondent : Mr.A.K.Radhakrishnan

ORDER

The decree holder in E.P.No.3 of 2012 has filed the above Civil Revision Petition under Article 227 of the Constitution of India to strike

off the application in E.A.No.18 of 2013 in E.P.No.3 of 2012 in O.S.No.1 of 2005 on the file of the District Court, The Nilgiris at Ootakamund.

2. Pursuant to the decree passed in O.S.No.1 of 2005, the revision petitioner filed an Execution Petition in E.P.No.3 of 2012. In the said Execution Petition, the respondent/Judgment Debtor filed an application in E.A.No.18 of 2013 to stay all further proceedings in respect of O.S.No.1 of 2005 and to transfer the same to the Official Liquidator of Companies at Madras for proper adjudication.

3. The learned counsel appearing for the revision petitioner submitted that the decree holder has already filed their counter and are contesting the application. Further, the application was filed in the year 2013 and at this point of time, I do not find any reason to strike off the application. Further, the application in E.A.No.18 of 2013 can be decided by the District Judge, The Nilgiris, on merits.

4. It is also brought to the notice of this Court that the respondent/Judgment Debtor filed another application in E.A.No.18 of 2015 in E.P.NO.3 of 2012 to implead the Official Liquidator, Chennai, as a respondent and the revision petitioner also filed a Civil Revision Petition

in C.R.P.(NPD)No.4251 of 2015 and this Court, by order dated 02.11.2015 directed the Executing Court to dispose of the application in accordance with law. Further, the learned counsel appearing for the revision petitioner submitted that after contest, the Executing Court had dismissed the application.

5. In these circumstances, I direct the District Judge, The Nilgiris at Ootakamund to dispose of the application in E.A.No.18 of 2013 in E.P.No.3 of 2012 in O.S.No.1 of 2005, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after hearing both sides.

With these observations, the Civil Revision Petition is disposed of. No costs. Connected miscellaneous petition is closed.

20.10.2016

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Note: Issue on 25.10.2016

To
The District Judge, The Nilgiris, Ootakamund.

M.DURAISWAMY,J

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