

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.4800 of 2015
and M.P.No.1 of 2015

Madhavi

... Petitioner

Vs.

S.Sundaram

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order passed in memo dated 23.11.2015 in E.P.No.22 of 2007 in O.S.No.87 of 2003 on the file of the Subordinate Court, Ootacamund.

For Petitioner : Mr.N.Naganathan

ORDER

Challenging the order passed in E.P.No.22 of 2007 dated 23.11.2015, the Judgment Debtor has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.87 of 2003 for specific performance.

3.The trial Court decreed the suit by its judgment and decree dated 10.09.2004. Aggrieved over the judgment and decree passed by the trial Court, the revision petitioner filed an appeal with a delay of 816 days in filing the appeal, which was dismissed by the District Court, Nilgiris, against which the revision petitioner filed a Civil Revision Petition in C.R.P.(NPD).No.2375 of 2007 before this Court and this Court, by order dated 21.01.2013, dismissed the Civil Revision Petition. Aggrieved over the same, the revision petitioner filed an appeal before the Hon'ble Supreme Court in S.L.P.(Civil) No.24229 of 2013 and the Hon'ble Supreme Court, by its order dated 02.05.2014, dismissed the appeal. Pursuant to the decree passed in O.S.No.87 of 2013, the respondent Decree Holder filed Execution Petition in E.P.No.22 of 2007. In the Execution Petition, the Execution Court ordered delivery on 23.11.2015. The delivery was ordered in respect of the entire building in Assessment No.19082 without any deviation in it. When the decree does not say anything about the portion and when the decree was passed in respect of the entire building, the contention of the Judgment Debtor that the plaintiff is entitled only to a portion of the building cannot stand. The decree passed by the trial Court has become final. In these circumstances, the Execution Court is bound by the decree

passed by the trial Court. The Execution Court is bound to execute the decree as granted by the trial Court. In these circumstances, the contention of the petitioner cannot be accepted.

4. In these circumstances, the Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

06.01.2016

To

The Subordinate Court,
Ootacamund.

M.DURAIWAMY,J.
va

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