

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.1350 of 2016

and

CMP.No.7581 of 2016

A.S.Rani Clementia

.. Petitioner

Vs

1.Dallas

2.Pappa

3.Dhayala Mary

4.Vimala

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the CRP, thereby directing the Subordinate Judge, Tambaram to advance the hearing in E.A.No.26 of 2016 in E.P.No.146 of 2015 in O.S.No.220 of 2009 which is adjourned on 17.06.2016.

For Petitioner

:Mr.A.R.Nixon

ORDER

The plaintiff in O.S.220 of 2009 on the file of Subordinate Judge, Tambaram, is the revision petitioner herein and the defendants 1 to 4 are the respondents herein.

2. The suit is filed seeking declaration of title over the suit property; delivery of possession from the defendants after removal

of obstruction put by the defendants in the suit property and permanent injunction. The suit was decreed in favour of the plaintiffs on 02.06.2015.

3. Thereafter, an Execution Petition in E.P.No.146 of 2015 was filed by the decree holder. The Execution Petition came up for hearing on 29.02.2016 and it was adjourned to 17.06.2016.

4. Aggrieved over long adjournment, the decree holder filed an application in E.A.No.26 of 2016 on 18.03.2016, to advance the hearing, praying for advancement of hearing from 17.06.2016 to any other earlier date, alleging that the judgment debtors are interfering with the peaceful possession and enjoyment of the suit property by violating the decree continuously.

5. The application was posted for notice of hearing on 11.04.2016 and on 11.04.2016, it is posted for filing counter by 17.06.2016.

6. When the applicant in the said application has asked for an advance hearing before 17.06.2016, there is no purpose or meaning in posting the matter for filing counter by 17.06.2016; that means the hearing on merits cannot be on 17.06.2016 even,

and the hearing in the main matter is likely to go beyond 17.06.2016. Then that step makes the application to advance the hearing, a ridiculous one.

7. The order passed in the Executing Court shows only non-application of mind. When the decree holder has asked for early hearing , it is for the Executing Court to say "Yes or No" but posted the case for filing counter, which is unwarranted.

8. Therefore, the Executing Court is directed to advance the hearing to any date during the first week of June 2016 and also to dispose of the Execution Petition within a period of two months from the date of receipt of a copy of the order.

9. With the above direction, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

29.04.2016

ds

To:
The Sub-ordinate Judge,
Tambaram.

S.VIMALA,J.

ds

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