

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HON 'BLE **Dr.JUSTICE S.VIMALA**

CRP (NPD) No.1377 of 2016
and CMP.No.7670 of 2016

Suganthi

.. Petitioner

Vs

1.Dhakshinamurthy
2.Beerappa
3.B.Madesh
4.Cidhappa
5.Nagaraj
6.Suresh
7.Rathinamma
8.Rajamma
9.Nagamma

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the order and decretal order dated 08.09.2015 passed in E.A.No.32 of 2015 in E.A.No.13 of 2015 in E.P.No.140 of 2012 in O.S.No.14 of 2012 on the file of the Principal District Judge, Krishnagiri.

For Petitioner

:Mr.M.Thomas Aquinas

ORDER

The revision petitioner is the third party in the execution petition in E.P.No.140 of 2012 and petitioner in the execution application in E.A.No.32 of 2015. The 1st respondent herein (Dhakshinamurthy) is the decree holder and the respondents 2 to 9

are the judgment debtors.

2. This Civil Revision Petition has been filed challenging the order of dismissal dated 08.09.2015 passed in E.A.No.32 of 2015 in E.A.No.13 of 2015 in E.P.No.140 of 2012 in O.S.No.14 of 2012 on the file of the Principal District Judge, Krishnagiri.

3. This application in E.A.No.32 of 2015 has been filed by the revision petitioner, who is the wife of one Bahirathan. It is stated that the revision petitioner and her husband were in enjoyment of the suit property and after the death of her husband, the respondents herein have attempted to take possession of the suit property through Court process. It is alleged that the revision petitioner herein had no knowledge about the suit filed till then.

3.1.Having not impleaded her as a party in the suit, this application has been filed, to stay the delivery of execution proceedings.

4. The said order in E.A.No.32 of 2015 dated 08.09.2015 reads that, as delivery has already been effected to the decree holder as per the delivery warrant, there is nothing to stay the delivery of the petition mentioned property.

5. From the perusal of the order, it is clear that the application filed before the Executing Court itself had been infructuous, the remedy lies elsewhere.

5.1. This order is under challenge.

6. As rightly pointed out by the Executing Court that, as the delivery has already been effected as per the delivery warrant, nothing remains to stay the execution proceedings. Hence, there is no scope for interference in the order passed by the Execution Court. The only remedy open to the revision petitioner is to ask for re-delivery of the property, if there is any right.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2016

ds

To:
The Principal District Judge,
Krishnagiri.

S.VIMALA,J.

ds

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