

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2015 of 2016
and C.M.P.No.10484 of 2016

Muthusamy Gounder (Died)
1.M.Mani
2.M.Chinnasamy
3.M.Ramayammal ... Petitioners

Vs.

P.Palanisamy ... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and final order dated 08.07.2015 passed in E.P.No.6 of 2014 in O.S.No.66 of 1998 on the file of the I Additional Sub Court, Erode.

For Petitioners : Mr.D.Kanagasundaram

For Respondent : Ms.S.Varsha
for Mr.S.T.S.Murthi

ORDER

Challenging the fair and final order passed in E.P.No.6 of 2014 in O.S.No.66 of 1998 on the file of the I Additional Sub Court, Erode, the legal representatives of the 1st defendant have filed the above Civil Revision Petition.

2.Pursuant to the decree for specific performance granted in O.S.No.66 of 1998, the respondent/plaintiff filed an Execution Petition in E.P.No.6 of 2014. During the pendency of the Execution Petition, the purchasers from the defendant filed an application in E.A.No.219 of 2009 under Section 47 of the Civil Procedure Code. The Executing Court, taking into consideration the case of both parties, dismissed the application.

3.According to the learned counsel for the petitioner, as against the dismissal of the application in E.A.No.219 of 2009, the purchasers have filed the Civil Revision Petition. However, the same has not yet been numbered.

4.It is settled position that a 3rd party cannot file an application under Section 47 of the Civil Procedure Code.

5.The trial Court had rightly dismissed the application filed by a 3rd party under Section 47 of the Civil Procedure Code.

6.The petitioners/Judgment Debtors contended that in view of the pendency of the Civil Revision Petition, the Executing Court should not have ordered delivery.

7. Since the application, filed by a 3rd party, under Section 47 of the Civil Procedure Code itself is not maintainable, the contention raised by the petitioners/Judgment Debtors cannot be accepted, which was also rightly rejected by the Executing Court.

8. In these circumstances, I do not find any error or irregularity in the order passed by the Executing Court. The Civil Revision Petition is devoid of merits and 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
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01.07.2016

To

The I Additional Sub Court,
Erode.

M.DURAIWAMY,J.
va

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