

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2384 of 2016
and C.M.P.No.12335 of 2016

1.K.Mani

2.Dilli Ganesh

... Petitioners

Vs.

1.D.Murugesan

2.D.Savithri Ammal

... Respondents

Civil Revision Petition filed under Article 227 of Constitution of India against the petition and order dated 01.07.2016 in un-numbered E.A.No. of 2016 in E.P.No.23 of 2011 in O.S.No.269 of 2009 on the file of the Sub Court, Vaniyambadi and direct the Court to take the petition on file.

For Petitioners : Mr.R.Subramanian

ORDER

Challenging the order passed in an un-numbered E.A.No. of 2016 in E.P.No.23 of 2011 in O.S.No.269 of 2009 on the file of the Subordinate Court, Vaniyambadi, the revision petitioners, who are 3rd parties to the proceedings, have filed the above Civil Revision Petition.

2. Pursuant to the decree granted in O.S.No.269 of 2009, the 1st respondent/Decree Holder filed an Execution Petition in E.P.No.23 of 2011. The Executing Court ordered delivery in the Execution Petition. Thereafter, the revision petitioners filed un-numbered E.A.No. of 2016 in E.P.No.23 of 2011 under Section 47 of the Civil Procedure Code read with Order 21 Rule 101 of the Civil Procedure Code. The Execution Court returned the papers raising a query with regard to the maintainability of the application. Admittedly, the revision petitioners are 3rd parties to the proceedings. The revision petitioners have approached this Court even without making any submission as to the maintainability of the application before the Executing Court.

3. Since the revision petitioners have filed the Civil Revision Petition without making any submission with regard to the maintainability of the application before the Executing Court, I am of the view that an opportunity can be given to the petitioners to make their submissions before the Executing Court as to the maintainability of the application. In such view of the matter, I give liberty to the petitioners to make their submissions before the Subordinate Court, Vaniyambadi with regard to the maintainability of the application within three days from the date of

receipt of a copy of this order. On making such submissions before the Executing Court, the Subordinate Court, Vaniyambadi is directed to decide the issue with regard to the maintainability of the application under Section 47 of the Civil Procedure Code read with Order 21 Rule 101 of the Civil Procedure Code within one week from the date of making their submissions.

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

Index : No
Internet : Yes
va

10.08.2016

Note: (i) Issue order copy today itself.

(ii) Registry is directed to return the un-numbered application filed by the revision petitioners.

To

The Sub Court,
Vaniyambadi

M.DURAIWAMY,J.
va

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