

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

**C.R.P.(NPD)Nos.2475 and 2476 of 2016 &
C.M.P.No.12844 and 12845 of 2016**

M/s Kumar Steel Pipes and Tubes,
rep. By its Proprietor
G.Rathinakumar
18-C, Ranga Konar Street,
Kattoor,
Coimbatore 9

... Petitioner in CRP(NPD)No.2475/16

M/s Adithya Steels
rep. By its Proprietor
P.Sri Hari
18-B, Ranga Konar Street,
Kattoor,
Coimbatore 9

... Petitioner in CRP(NPD)No.2476/16

..VS...

1. Sri Chitra Mills rep. By its
Partner S.K.Kumar
S/o Subramaniam
Rajarav Street,
Tiruppur.

2. A.Natarajan

3. N.K.Senkaliappan

4. N.Sangameswaran

..Respondents in both CRPs

Civil Revision Petitions filed under Section 227 of the Constitution of India against the fair and decreetal orders dated 21.03.2016 made in R.E.A.Nos.428 and 429 of 2014 in R.E.A.Nos.290 and 291 of 2014 in R.E.A.Nos.176 of 2013 in R.E.P.No.185 of 2008 in O.S.No.568 of 1992 on the file of the II Additional Sub Court, Coimbatore.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.K.M.D.Muhilan (R1) Caveator

COMMON ORDER

Challenging the orders dated 21.03.2016 passed in R.E.A.Nos.428 and 429 of 2014 in R.E.A.Nos.290 and 291 of 2014 in R.E.A.Nos.176 of 2013 in R.E.P.No.185 of 2008 in O.S.No.568 of 1992, on the file of the II Additional Sub Court, Coimbatore, the third party obstructors have filed the above Civil Revision Petitions.

2. Pursuant to the decree granted in O.S.No.568 of 1992, the 1st respondent/decreed holder filed an Execution Petition in R.E.P.No.185 of 2008. In the said Execution Petition, the 1st respondent/decreed holder filed an application in R.E.A.No.176 of 2013 for recovery of possession. In the said application, the revision petitioners, who are third parties to the proceedings, filed applications in R.E.A.Nos.290 and 291 of 2014 under Order 21 Rule 97 of the Code of Civil Procedure, claiming that they

are in possession of the suit property. The 1st respondent/decreed holder, filed their counter and are contesting the applications. In the said applications, the revision petitioners filed applications in R.E.A.Nos.428 and 429 of 2014 under Order 6 Rule 17 of the Code of Civil Procedure, to amend the averments in the petition. The 1st respondent/decreed holder filed their counter and contested the applications. The trial Court, taking into consideration the case of both parties, dismissed the applications, against which, the third party obstructors have filed the above Civil Revision Petitions.

3. In the affidavit filed in support of the applications in R.E.A.Nos.428 and 429 of 2014, the revision petitioners have stated the reasons which were not originally stated in the applications filed in R.E.A.Nos.290 and 291 of 2014 and they have also referred to other person viz., Mrs.Deivathal, who is not a party to the proceedings. Further, the revision petitioners have also spoken about the attornment of tenancy and also the fact that the partner of the firm is attempting to evict them illegally.

4. Since the averments filed in support of the applications in R.E.A.Nos.428 and 429 of 2014, cannot be decided in the Execution

Petition filed by the 1st respondent/decreed holder, the Executing Court, has rightly dismissed the applications. The averments stated in the affidavits filed in support of the applications in R.E.A.Nos.428 and 429 of 2014 are totally irrelevant to the adjudication of the applications filed under Order 21 Rule 97 of the Code of Civil Procedure. In these circumstances, I do not find any error or irregularity in the orders passed by the Executing Court. The Civil Revision Petitions are devoid of merits and hence the same are dismissed.

5. Since the applications in R.E.A.Nos.290 and 291 of 2014 are pending for a long time, I direct the II Additional Subordinate Court, Coimbatore, to dispose of those applications, on merits and in accordance with law, within two months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are also dismissed.

24.10.2016

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Note: Issue on 26.10.2016
To

The II Additional Sub Court, Coimbatore.

M. DURAISWAMY,J.,

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24.10.2016