

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2467 of 2016  
and CMP No.12835 of 2016

Chandrasekar

..... Petitioner

vs

Meenambal (deceased)  
1. Gurusamy  
2. Rathinasabapathy  
Pakkirisamy (deceased)

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order passed in E.A.No.50 of 2016 in E.P.No.34 of 2015 in O.S.No.706 of 1984, dated 16.06.2016 on the the file of Additional District Munsif, Mayiladuthurai.

For Petitioner : Mr. J.Milton Arul Rajendran

**ORDER**

Challenging the order passed in E.A.No.50/2016 in E.P.No.34/2015 in O.S.No.706/1984 on the file of Additional District Munsif, Mayiladuthurai, the 2<sup>nd</sup> Judgment Debtor has filed the above

Civil Revision Petition.

2. Pursuant to the final decree passed in the suit in O.S.No.706/1984, the plaintiff filed an Execution Petition in E.P.No.34/2015. In the said execution petition, the 2<sup>nd</sup> Judgment Debtor took out an application in E.A.No.50/2016 to stay the execution petition.

3. In the affidavit, filed in support of the petition, the revision petitioner has stated that the plaintiff obtained a decree without impleading the legal representatives of one of the defendants viz., Pakkirisamy and therefore, the execution petition could be stayed. Further, he has stated that another suit in O.S.No.130/2014 on the file of Additional Sub Court, Mayiladuthurai is also pending in respect of the same property and therefore, the execution petition could be stayed till the disposal of the suit in O.S.No.130/2014.

4. The petitioner has not stated that he has challenged the Final Decree passed in O.S.No.706/1984. When the suit was filed in the year 1984 and the other suit was filed in the year 2014, that cannot be stated as a ground for staying the execution proceedings.

The reasoning, given by the petitioner for staying the execution petition, was rightly rejected by the Executing Court. Under Order 21 Rule 26 of Civil Procedure Code, the reasoning given by the petitioner for staying the execution petition cannot be accepted. In these circumstances, I do not find any reason to interfere with the order passed by the Executing Court. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected CMP is closed.

11-08-2016

sr

Index:no  
website:yes

To

The Additional District Munsif, Mayiladuthurai,

**M. DURAISWAMY,J.,**

sr

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