

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD) No.2552 of 2016

and C.M.P.No.13079 of 2016

Annamalai Chettiar

... Petitioner

..VS..

1. K.T.M.Habeeba Ayesha
2. A.Althaf Hussain
3. A.Javid Hussain
4. Thasneem
5. A.H.Mazia
6. A.H.Sheerin Farthana

... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order dated 25.04.2016 in E.P.No.1366 of 2014 in O.S.No.6798 of 1999 on the file of the X Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.J.R.K.Bhavanantham

O R D E R

Heard Mr.J.R.K.Bhavanantham, learned counsel appearing for the petitioner.

2. Challenging the fair and decretal order dated 25.04.2016

passed in E.P.No.1366 of 2014 in O.S.No.6798 of 1999 on the file of the X Assistant Judge, City Civil Court, Chennai, the Judgment Debtor has filed the above Civil Revision Petition

3. Pursuant to the decree granted in O.S.No.6798 of 1999, the plaintiffs/decreed holders filed an Execution Petition in E.P.No.1366 of 2014 for delivery of possession. By order dated 25.04.2016, the Executing Court allowed the Execution Petition and ordered delivery.

4. Mr.J.R.K.Bhavanantham, learned counsel appearing for the revision petitioner submitted that as against the Judgment and decree passed in O.S.No.6798 of 1999, the defendants preferred an appeal in A.S.No.346 of 2005 on the file of the Additional District and Sessions Court, Fast Track Court No.IV, Chennai and the lower Appellate Court had confirmed the Judgment and decree passed in O.S.No.6798 of 1999. Further, the learned counsel submitted that as against the Judgment and decree passed in A.S.No.346 of 2005, the defendants have filed a Second Appeal in S.A.No.1483 of 2008 before this Court and the same is also pending. Further the learned counsel submitted that the revision petitioner/Judgment Debtor is going to file a stay petition in the Second Appeal.

5. In view of the submissions made by the learned counsel for the

petitioner, since the Judgment and decree passed in O.S.No.6798 of 1999 has not been stayed by the appellate forum, I do not find any reason to interfere with the order passed by the Executing Court in the Execution Petition.

6. In view of the same, the the Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

15.09.2016

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To

The X Assistant Judge,
City Civil Court, Chennai.

M. DURAISWAMY,J.,

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