

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.09.2016

Coram

The Hon'ble Mr.Justice M.DURAISWAMY

CRP(NPD)No.2996 of 2016
CMP.No.15120 of 2016

1. K.R.Sengodan
2. Gunavathy

..Petitioners

Vs

1.Kannammal
2. Maadheswari
3. Kannupaiyan

... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 27.04.2016 passed in E.A.No.33 of 2016 in E.P.No.15 of 2014 in O.S.No.1017 of 1993 on the file of the Principal District Munsif, Bhavani, Erode District.

For Petitioners : Mr.E.C.Ramesh
For Respondents : Ms.R.Meenal

O R D E R

Challenging the fair and decreetal order dated dated 27.04.2016 passed in E.A.No.33 of 2016 in E.P.No.15 of 2014 in O.S.No.1017 of 1993 on the file of the Principal District Munsif, Bhavani, the third party petitioners, have filed the above Civil Revision Petition.

2. The plaintiffs filed a suit in O.S.No.1017 of 1993 for partition.

A preliminary decree was passed on 18.11.1994. Thereafter, the final decree was passed on 04.11.2013. Pursuant to the final decree passed in O.S.No.1017 of 1993, the plaintiffs filed an Execution Petition in E.P.No.15 of 2014. The revision petitioners, who are third parties to the proceedings, filed an application in E.A.No.14 of 2015 in E.P.No.15 of 2014 under Order 21 Rule 29 of the Code of Civil Procedure, to stay the execution proceedings till the disposal of the suit filed by them in O.S.No.17 of 2016 on the file of the Subordinate Court, Bhavani. Admittedly, the petitioners are not parties in O.S.No.1017 of 1993 and they are third parties so far as the proceedings in O.S.No.1017 of 1993 is concerned. While so, when the suit was filed by the plaintiffs in the year 1993 and the final decree was passed in the year 2013 and the Execution Petition was filed in the year 2014, filing of a suit in the year 2016 by the revision petitioners, shall not stand in the way of the plaintiffs executing the decree passed in O.S.no.1017 of 1993. Filing of the application under Order 21 Rule 29 of the Code of Civil Procedure by the revision petitioners is only to prevent the plaintiffs from executing the decree obtained in their favour. The Executing Court, taking note of all these aspects, rightly dismissed the application. 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 hence the same is dismissed.

No costs. Connected miscellaneous petition is also dismissed.

29.09.2016

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To

Principal District Munsif, Bhavani, Erode District.

M.DURAI SWAMY,J

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