



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

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C.R.P(MD)No.2067 of 2015 (PD)

and

M.P(MD)No.3 of 2015

1.K.Vijaya

2.Kaliamoorthy

.. Petitioners

Vs.

1.Chandra

2.Rajendran

.. Respondents

PRAYER: Civil Revision Petition is filed, under Section 115 of Code of Civil Procedure, to set aside the Fair and Decreetal Order made in E.P.No.7 of 2006 in O.S.No.319 of 1998 on the file of the District Munsif Court, Kumbakonam, dated 18.08.2014 and allow the above C.R.P.

For Petitioners : Mr.D.Senthil

For Respondent : Mr.AL.Gandhimathi

ORDER

The petitioners are the judgment debtors. As per the decree in O.S.No.319 of 1998 and A.S.No.27 of 2003, the petitioners have to remove the structure put up by the petitioner failing which, the decree holder is entitled to remove the same. The petitioners have filed the second appeal in S.A.No.97 of 2006. This Court dismissed the second appeal on 26.03.2014. The respondent filed E.P.No.7 of 2006 for execution of the decree. The respondent filed a memo along with copy of the judgement passed in the second appeal. Again, the petitioners filed a memo stating that he filed a Review Petition in the S.A.No.97 of 2006 and the same has not been listed. The learned Judge considering these facts, passed an order in E.P., to execute the decree, dated 27.11.2002. Against the said order, the present Civil Revision Petition is filed.

2.The learned counsel for the petitioners submitted that the learned Judge has failed to see that the petitioners have filed the Review Petition before this Court and the same is pending. The learned Judge erred in ordering to removal of the structure put up by the petitioners.

3.The learned counsel for the respondent submitted that already this Court, dismissed the Second Appeal and the learned Judge has already passed the order of removing the structure put up by the petitioners and prayed for dismissal of the Civil Revision Petition.



4.I have heard Mr.D.Senthil, learned counsel appearing for the petitioners and Mrs.AL.Gandhimathi, learned counsel appearing for the respondents and also carefully perused the entire materials on record.

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5.From the materials, it is seen that the second appeal filed by the petitioner was dismissed on 26.03.2014. The petitioners are contending that he has filed review petition and is not listed for hearing. The petitioners have not produced any order. In the circumstances, there is no reason warranting interference with the order of the lower Court, by this Court.

6.Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To
The District Munsif Court, Kumbakonam,
+One CC to M/s.D.Senthil Advocate in Sr.No.10321
CN/SKS-RR/10.03.2016/2P-3C

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