

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.04.2017

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C. M. P. No. 6535 of 2017

and

C. R. P. S R. No. 25595 of 2017

1. Asalamani

2. Kanagavalli

3. Manikandan

.. Petitioners

Vs.

1. Thanjiyappa

2. Paranthaman

3. Krishnamoorthy

.. Respondents

Prayer: Civil Miscellaneous Petition is filed seeking leave of this Court to file Civil Revision Petition under Article 227 of Constitution of India to strike out of further proceedings for delivery of possession in E.P.No.147 of 2013 in O.S.No.102 of 2011 on the file of District Munsif Court, Arni.

For Petitioners : M/s.R.Margabandhu

ORDER

The petitioners have filed this Civil Miscellaneous Petition seeking leave to file the present Civil Revision Petition before this Court to strike out of further proceedings for delivery of possession in E.P.No.147 of 2013 in OS No.102 of 2011 on the file of District Munsif Court, Arni.

2. According to the petitioners, the third respondent filed the suit in OS No.102 of 2011 before the District Munsif Court, Arni for specific performance of execution of sale deed in respect of the suit property as per the sale agreement. The petitioner's father is a party to the aforesaid suit. The petitioner's father did not appear and ex parte decree was passed. The third respondent / decree holder filed E.P.No.147 of 2013 for execution of sale deed. Execution petition was allowed on 04.08.2014 and pursuant to the same, sale deed was executed and Execution Petition was closed on 09.12.2014. The petitioners were not party to the aforesaid Execution Petition. In the meanwhile, the petitioners have filed a suit in O.S.No.260 of 2014 on the file of the Sub Court, Arni against their father and one of their brother seeking partition.

3. Aggrieved by the order passed in E.P.No.147 of 2013 in O.S.No.102 of 2011, the petitioners have filed the present Civil Revision

Petition before this court.

4. I have considered the submissions made by the learned counsel for the petitioners and perused the materials available on record.

5. On perusal of records, it is seen that the third respondent has filed the suit in O.S.No.102 of 2011 before the District Munisif Court, Arani for specific performance of execution of sale deed in respect of the suit property. The petitioner's father namely Thanjiyappan, is the 1st defendant in the aforesaid suit. The third respondent obtained ex-parte decree against the defendants. Thereafter, E.P.No.147 of 2013 was filed. Subsequently, the petitioners have also filed the suit in O.S. No.260 of 2014 for partition against the first and second respondent. The said suit is still pending before the Sub Court, Arni. At this stage, the petitioners filed an application seeking leave to file the present Civil Revision Petition before this Court. The petitioners, being aggrieved by the Judgment and Decree passed in the suit in OS. No.102 of 2011, have to workout their

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remedy before the appropriate forum. Further, the petitioners have not

chosen to obtain any orders against the first and second respondent from the appropriate forum, inspite of the knowledge of the judgment and decree passed in OS.No.102 of 2011. Therefore the petitioners have not made out any case to interfere with the order of the court below.

6. In view of the above facts and circumstances of the case, I am not inclined to entertain this petition seeking leave to file the Civil Revision Petition. Accordingly, the Civil Miscellaneous Petition is dismissed and consequently, the Civil Revision Petition is closed. No Costs.

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Index : Yes/No
Internet: Yes/No
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To

1.The District Munsif Court, Arani

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