

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Civil Revision Petition (PD) No.439 of 2017
& CMP.No.2125 of 2017

K.Saraswathi

... Petitioner

vs

P.Palanisamy

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the Docket order dated 23.09.2016 passed in Unnumbered R.E.A....of 2016 in R.E.P.No.45 of 2015 in O.S.No.253 of 2010 on the file of the learned Subordinate Judge, Thiruchengode.

For Petitioner : Mr.K.Rajasekaran

ORDER

Civil Revision Petition has been filed against the Docket order dated 23.09.2016 passed in Unnumbered R.E.A....of 2016 in R.E.P.No.45 of 2015 in O.S.No.253 of 2010 on the file of the learned Subordinate Judge, Thiruchengode.

2.The suit laid by the plaintiff for specific performance culminated in a decree. He has preferred R.E.P.No.45 of 2015 for executing the decree. It is also found that the plaintiff has deposited the balance sale consideration into the court. Response has been filed to the above said R.E.P.No.45 of 2015 by the petitioner contending that he has laid a suit for partition and further, the petition has been preferred to set aside the ex-parte decree passed in the suit.

3.However, as rightly found by the court below, inasmuch as no stay has been granted in favour of the petitioner/third defendant finding that there is no impediment in the further prosecution of the execution petition, accordingly allowed the execution petition and called for the draft sale deed by 27.04.2016.

4.Thereafter, it appears that the petitioner has filed an application, not taken on file, to stay the proceedings, to enable the petitioner to prefer a revision petition against the order passed by the court below dated 11.03.2016 in R.E.P.No.45 of 2015. It is found that same reasons above mentioned had been reiterated by the petitioner in un-numbered REA and accordingly, it is found that the application has been returned. Challenging the same, the present civil revision petition has been preferred.

5. On a perusal of the records and also the impugned order of the court below, I do not find any infirmity in the impugned order of the court below. It is also found that there is no sufficient cause to stay the further proceedings of the execution petition.

6. In such view of the matter, the civil revision petition is devoid of merits and accordingly is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2017

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Index:yes/no
Internet:yes

To
The Subordinate Judge, Thiruchengode

T.RAVINDRAN, J

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