

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

CRP.No.4626 of 2015 &
CMP Nos.14779 & 19336 of 2016 & M.P.1 of 2016

1.K.Shanthi
2.C.kandasamy ... Petitioners/Third Party

..Vs..

1.M.Rangasamy
K.Tahngamani (died)
2.K.Selvaraj
3.K.Shanmugam ... Respondents/Plaintiff/
Defendants

Prayer:- Civil Revision Petition filed under article 227 of Constitution of India to strike off the E.P.No.76 of 2014 made in O.S.No.91/2006 on the file of the Principal Sub Court at Tiruppur, Tiruppur District.

For Petitioner : Ms.P.T.Asha

For Respondents : No Appearance

ORDER

According to the the petitioner, the petitioner has filed the present Civil Revision Petition praying to strike off the Execution Petition filed by the 1st respondent in E.P.No.76/2014 in O.S.No.91/2006, Principal Sub court, Tiruppur.

2.According to the petitioners, the first respondent is the plaintiff in the suit. Respondents 3 and 4 are the defendants 2 and 3 in the suit. Respondents 3 and 4 had endorsed that decree may be passed as prayed for. Accordingly, the decree was passed on 18.08.2009 in favour of the plaintiff and thereafter the sale deed was also executed by the defendants in the suit and the 1st respondent was in possession of the property and subsequently the said property was bequeathed in favour of the second petitioner herein who is third party in the suit. Now the 1st respondent has filed E.P.No.76/2014 in O.S.No.91/2006, which is nothing but abuse of process of law and the first respondent has already filed a memo before the Court below and it was

recorded by the Court below. Hence the present Civil Revision Petition is filed on the ground that the execution petition filed by the first respondent is nothing but abuse of process of law.

3.At this stage, this Court cannot entertain this Revision under Article 227 of the Constitution of India, since the petitioner having efficacious remedy before the Executive Court to raise all the grounds. These are all the disputed facts. Therefore, the petitioner can approach the Court concerned.

4.In view of the facts and circumstances of the case, I am inclined to pass the following order:-

i)The Principal Sub Court, Tirupur is directed to dispose of the E.A.No.10/2015 in E.P.No.76/2014 filed under section 47 of the CPC in accordance with law as expeditiously as possible, on or before 30.07.2017, after providing opportunities to the parties concerned.

ii)It is open to the petitioners to file necessary application to send the memo dt.11.09.2009 recording full satisfaction by the first respondent along with contemporaneous documents, for expert opinion regarding the veracity of the signature of the first respondent.

iii)It is open to the respondents to file counter affidavit to such application filed by the petitioner.

5.The Civil Revision Petition is disposed of with the above direction. No Costs. Consequently, the connected miscellaneous petitions are closed.

6.The Registry is directed to return the original documents filed along with CMP.19336/2016 to the counsel for the petitioners after obtaining copy of the same.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KP

To

The Principal Sub Judge,
Tiruppur.

+1cc to M/s.Sarvabhauman Associates, Advocate, S.R.No.18354

CRP.No.4626 of 2015

NM I(CO)

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CA(04/04/2017)