

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.06.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No. 200 of 2016
and
C.M.P.No.1014 of 2016

K.Paramasivam

.. Petitioner

vs.

1.Poongodi

2. Rajammal

3.Nagarajan

...Respondents

This Civil Revision Petition is filed under Section 115 of CPC, against the order and Decreetal order dated 04.09.2015 in R.E.A. No.29/2014 in R.E.A.No.12/2014 in R.E.P.No.26/2011 in O.S.No.179/2007 on the file of the District Munsif Court, Rasipuram.

For Petitioner : Mr.D.Shivakumaran

For Respondents 1 : Mr.N.Manokaran

For Respondent 2&3 : Mr.Guruprasad

ORDER

This Civil Revision Petition arises against the order dated 04.09.2015 in R.E.A. No.29/2014 in R.E.A.No.12/2014 in R.E.P.No.26/2011 in O.S.No.179/ 2007 on the file of the District Munsif Court, Rasipuram.

2. Brief facts of the case is as follows :-

The petitioner filed a suit in O.S. No. 179 of 2007 for recovery of money, against the respondents. The aforesaid suit was decreed on 26.03.2007. Hence, the petitioner filed R.E.P No. 26 of 2011 to execute the decree by sale of two immovable properties belonging to the respondents. Pursuant to the same, sale certificate was also issued in favour of the petitioner, who was the auction purchaser before the Executing Court. Thereafter, the petitioner filed R.E.A No.12 of 2014 for delivery of possession and delivery was also ordered. Since the same was objected, the petitioner filed another application in R.E.A No.28 of 2014, for removal of obstruction with police aid. At this stage, the 1st respondent filed an application in R. E. A. No. 29 of 2014 under

Order 21 Rule 95 of Code of Civil Procedure, to record her objections in the Execution proceedings. After considering the facts, the court below has allowed the said R.E.A No.29 of 2014 on 04.09.2015. Challenging the said order, the petitioner has filed the present civil revision petition, before this Court.

3. The learned counsel for the respondents would submit that there is no error or illegality in the order passed by the court below, by allowing the said application. The case has been agitated before the Executing Court and appropriate order has been passed. Therefore, the Civil Revision Petition is liable to be dismissed.

4. Heard the rival submissions made by the learned counsel for the petitioner, the learned counsel for the respondents and perused the material available on records.

5. Based on the facts, the Executing Court has allowed the application filed by the 1st respondent. Challenging the said order, the petitioner has filed this Revision. According to the petitioner, he has no

serious objection for allowing the application filed by the 1st respondent in R.E.A. No.29 of 2014. At this stage, learned counsel for the petitioner would submit that the petitioner has also filed an application for removal of obstruction with police aid, under Section 151 of the Tamil Nadu Cooperative Societies Act and the same is pending. In the present situation, this Court is not inclined to consider this revision.

6. In view of the above, the Civil Revision Petition is dismissed. However, liberty is granted to the petitioner, to approach the Executing Court, if permissible under law. Consequently, the connected Miscellaneous Petition is closed. No costs.

23.06.2017

Index : yes / no

Speaking order/ Non-speaking order

avr

To

The District Munsif Court
Rasipuram.

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D.KRISHNAKUMAR, J.

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