

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

The Hon'ble Mr.Justice K.K.Sasidharan

C.R.P.(NPD)No.2787 of 2013

M.Subramanian

...Petitioner

Vs.

P.Krishnasamy

...Respondent

Prayer :-

Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the fair and decreetal order, dated 05.09.2012, passed by the learned Principal Subordinate Judge, Coimbatore, in I.A.No.219 of 2012, in A.S.C.F.R.No.5714 of 2012.

For Petitioner : Mr.S.N.J.Hariharan for
M/s.V.Nicholas

For Respondent : Mr.L.Mouli

ORDER

The Civil Revision Petition is directed against the order, dated 05.09.2012, in I.A.No.219 of 2012, on the file of the Principal Subordinate

Judge, Coimbatore, dismissing the application filed to condone the delay in filing the Appeal against the judgement and decree, in O.S.No.745 of 2008.

2. When the Civil Revision Petition was taken up for consideration today, the learned counsel appearing on behalf of the respondent submitted that nothing survives for adjudication, in view of the subsequent events. According to the learned counsel, the respondent filed a suit in O.S.No.2337 of 2008, for delivery of possession, and the suit was decreed, by judgment, dated 08.12.2011, and thereafter, he filed an Execution Petition, in E.P.No.75 of 2012, before the District Munsif, Coimbatore and took delivery. The learned counsel, therefore, contended that there is no question of filing Appeal against the judgment and decree in O.S.No.745 of 2008.

3. The suit in O.S.No.745 of 2008, appears to have been filed by the petitioner, on the ground that, he is in adverse possession of the property. The respondent, on the other hand, filed O.S.No.2337 of 2008, for delivery of possession, and obtained a decree. The decree was executed by filing an Execution Petition. The suit property in O.S.No.745 of 2008 is the very same property in O.S.No.2337 of 2008. In view of the subsequent events, there is

no question of filing Appeal by the petitioner, even if the delay is condoned.

I am, therefore, of the view that the Civil Revision Petition deserves to be dismissed.

4. In the result, the Civil Revision Petition is dismissed. No costs.

28.04.2017

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Index : Yes/No

To

The Principal Subordinate Judge, Coimbatore,

K.K.Sasidharan,J.,

sd

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