



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(NPD) (MD)No.2748 of 2015

and

MP(MD)No.1 of 2015

Murugan

... Petitioner/Respondent/
Defendant

vs.

Muthupandian

... Respondent/Petitioner/
Plaintiff

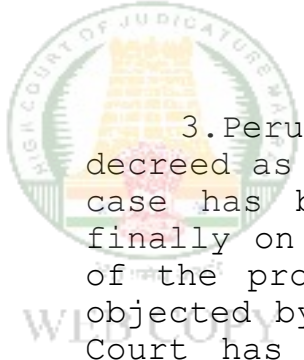
Petition filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order dated 06.11.2015 made in E.P.No.118 of 2011 in O.S.No.369 of 2005 on the file of the Principal District Munsif, Tenkasi.

For Petitioner : Mr.K.Guhan
For Respondent : Mr.R.Subramanian

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 06.11.2015 made in E.P.No.118 of 2011 in O.S.No.369 of 2005 on the file of the Principal District Munsif, Tenkasi.

2.The petitioner and respondent are brothers. The petitioner is defendant in the above suit and the respondent is plaintiff. The suit was filed for declaration, recovery of possession and mandatory injunction which was decreed in favour of the plaintiff by judgment and decree dated 08.06.2005. The petitioner filed E.P.No.118/11 before the Principal District Munsif, Tenkasi, for delivery of the suit schedule property as per the decree and EP was ordered on 28.10.2013 and the warrant was kept unexecuted till 27.11.2014 for various reasons. The petitioner filed E.A.Nos.129 and 130 of 2014. On 06.11.2015, again, the Bailiff returned the warrant as unexecuted as per the endorsement of the surveyor and plaintiff as the portion of the building to be demolished intervenes into the plaintiff's house and it was also objected to by the petitioner herein stating that the suit is stayed by the High Court and therefore, the Execution Court directed to file the stay order copy and posted the EP to 05.01.2016 and the respondent who is the revision petitioner herein was directed to appear in person on the said date. As against the said order, this revision petition has been filed.



3.Perusal of the records shows that though suit has been decreed as early as 08.06.2005 and EP was ordered on 28.10.2013, the case has been adjourned for various reasons upto 06.11.2015 and finally on 06.11.2015, warrant was returned stating that a portion of the property intervenes into the plaintiff's house and it was objected by the revision petitioner/defendant stating that the High Court has passed a stay order which is in force and therefore, warrant was returned and the learned Judge has specifically stated that perusal of the records shows that there was no stay order by the High Court and therefore, in my considered opinion, the petitioner has filed this revision petition only to protract the proceedings. The revision petitioner instead of appearing before the Court as ordered by the Court below has come before this Court by filing this revision which is clearly an abuse of process of the Court. Therefore, this Court is not inclined to entertain this revision petition and accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

The Principal District Munsif,
Tenkasi.

+One cc to Mr.K.Guhan, Advocate, SR.No.87070

+One cc to Mr.R.Subramanian, Advocate, SR.No.87124

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RL/4C/2P/GT/SAR4/15/12/2017

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