



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP (NPD) (MD) No.1143 of 2017

and

CMP (MD) No.5230 of 2017

1) Aseervathem

2) Gnana Bai

... Petitioners

vs.

1) Selvamony

2) Sundara Bai

3) Suresh

4) Benner

5) Sonia

6) Thasan

... Respondents

Petition filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order dated 07.04.2017 made in E.P.No.2 of 2014 in O.S.No.122 of 2008 on the file of the Principal District Munsif cum Judicial Magistrate Court, Eraniel.

For Petitioners : Mr.S.C.Herold Singh

ORDER

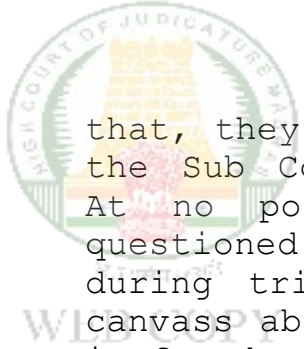
This revision petition is filed against the order passed by the Execution Court under Order 21 Rule 32 for delivery of possession.

2.The prime contention of the revision petitioner is that the execution petition is based on an in-executable decree since the boundaries of the B schedule property is not properly given. The decree is based on a forged sale deed playing fraud on one Mr.Vethakkan and his wife Packiam. Since fraud vitiates all proceedings, EP ought to have been dismissed. The suit property was orally divided among the parties in the year 1990 and parents of the 1st petitioner was allotted 1¾ cents upon which he has already put up construction with the knowledge of the decree holder. Therefore, the order passed in E.P.No.2/2014 ought to be set aside.

3.Heard the counsel for the petitioners and perused the records.

<https://hcservices.ecourts.gov.in/hcservices/>

4.This revision petitioners are defendants 1 and 2 in the suit. They have contested the suit and lost it. Aggrieved by



that, they have preferred first appeal which was also dismissed by the Sub Court, Padmanabhapuram in A.S.No.10/2011 on 20.03.2012. At no point of time, the petitioners/judgment debtors have questioned the description of the suit schedule property either during trial or in appeal. For the first time, they try to canvass about the discrepancy in the suit schedule property which is found to be false and frivolous by the Execution Court.

5.This Court finds no perversity in the said findings. The plea of in-executable decree and fraud are all after-thought raised by the revision petitioners belatedly for the first time in the execution proceedings after losing the case on facts before the Trial Court and the first appellate Court. I see no reason to interfere with the impugned order.

Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

The Principal District Munsif cum
Judicial Magistrate ,
Eraniel.

Nbi
MAS/KKR/SAR4:03.07.2017:2P-2C

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