



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD).No.351 of 2017 and
CMP(MD).No.1728 of 2017

D.Nixon Sugirtharaj

: Petitioner

Vs.

1.E.Saroja Joseph
2.V.Jeya Vijakumar
3.D.Kamaraj
4.D.Selwynraj

: Respondents

Prayer: The Civil Revision Petition is filed under Section 115 of CPC against the order dated 18.11.2016 passed in E.P.No.25 of 2016 in O.S.No.28 of 2006 on the file of the Sub Court, Ambasamuthiram, Thirunelveli.

For Petitioner : Mr. K.Rajeshwaran

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order dated 18.11.2016 passed in E.P.No.25 of 2016 in O.S.No.28 of 2006 on the file of the Sub Court, Ambasamuthiram, Thirunelveli.

2. The revision petitioner is the third defendant in suit in O.S.No.28 of 2006 on the file of the Sub Court, Ambasamuthiram, Thirunelveli and third respondent in the Execution Petition. The respondents 1 and 2 filed suit for partition and obtained decree. The respondents 1 and 2 filed E.P.No.25 of 2016 for delivery of properties mentioned in the schedule D,E and F properties. The respondents 1 and 2 filed Execution Petition against the respondents 3 and 4 and petitioner. Notice was served on the petitioner and fourth respondent. They did not appear before the Court on 14.07.2016. At the request of the first respondent, Execution Petition was adjourned for engaging Advocate and for filing counter. The petitioner and fourth respondent were set ex parte. After taking number of adjournments, by the third respondent the learned Judge by an order dated 18.11.2016 ordered delivery of possession.

3. Against the said order, the petitioner filed present Civil Revision Petition.



4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. The learned counsel appearing for the petitioner submitted that the learned Judge ought to have issued fresh notice to the petitioner before passing an order dated 18.11.2016 ordering delivery of the property. The said contention is untenable and not acceptable. Notice was served on the petitioner and he did not appear on 14.07.2016. Therefore, he was set ex parte on that date. He has not taken any steps to set aside the order. In view of the fact that petitioner was set ex parte he is not entitled to any fresh notice before passing an order dated 18.11.2016.

6. The learned Judge has considered all the materials on record in proper perspective and has given cogent and valid reasons for ordering delivery of possession in E.P.No.25 of 2016 in O.S.No.28 of 2006 on the file of the Sub Court, Ambasamuthiram, Thirunelveli. Further, the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Ambasamuthiram, Thirunelveli.

+ 1 CC TO Mr.K.RAJESWARAN, ADVOCATE IN SR No. 10128

TRP

TE/SKN-RSK : 23/03/2017 : 2P/3C

CRP(MD).No.351 of 2017 and
CMP(MD).No.1728 of 2017
23.02.2017