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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P. (MD) Nos.946 and 947 of 2015 and
M.P(MD).Nos.1 and 2 of 2015 in both C.R.Ps.

Sathya : Petitioner in both C.R.Ps./
Petitioner/2nd Respondent
/2nd Defendant

-Vs-

1.S. Thangavel : 1st Respondent/Respondent/
Petitioner/Plaintiff
2.Karuppanan : 2nd Respondents /Respondent/
1st Respondent/ 1st Defendant

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 07.03.2015 passed in E.A.Nos.38 and 39 of 2014 in E.P.No.55 of 2012 in O.S.No. 29 of 2006 by the learned Subordinate Judge, Vedachandur.

For Petitioner : Mr. Babu Rajendiran in both C.R.Ps.
For R1 : Mr. S. Vinod Sathya Lazar in both C.R.Ps.
For R2 : Mr. M. Selvakumar in both C.R.Ps.

O R D E R

These Civil Revision Petitions are filed against the fair and decreetal order, dated 07.03.2015 passed in E.A.Nos.38 and 39 of 2014 in E.P.No.55 of 2012 in O.S.No. 29 of 2006, on the file of the learned Subordinate Judge, Vedachandur.

2. The first respondent, who is the plaintiff, has filed a suit in O.S.No. 29 of 2006, on the file of the Principal Sub-Court, Dindigul, against the second respondent and the petitioner herein, seeking specific performance of a contract and the same has been decreed ex parte on 06.07.2006. Thereafter, the first respondent has filed an Execution Petition in E.P.No. 42 of 2007 and an ex parte decree was passed on 10.11.2008, as counter not filed. Subsequently, the first respondent filed an Execution Petition in E.P.No.38 of 2011 for delivery of properties and the same has been transferred to Sub-Court, Vedachandur and re-numbered as E.P.No.55 of 2012 and allowed on 11.04.2014. The petitioner has filed an Execution Application in E.A.No. 38 and 39 of 2014, calling the delivery warrant and for stay of all further proceedings in E.P.No.55 of 2012 respectively and both the applications were dismissed, on the ground that the Judgment-



debtor, who was a party to the proceedings is not entitled to challenge the decree before the Executing Court and the Executing Court has not go beyond the decree, unless it is void, abinitio or without jurisdiction. Challenging the same, the petitioner has filed the present Civil Revision Petitions.

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3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

4. On a perusal of the notes papers of the Court below passed in Execution Proceedings, it is seen that property has already been delivered and the delivery has been recorded and Execution Petition also terminated. Once the Execution Petition was terminated, there is no proceedings on Execution Petition. In such circumstances, these Civil Revision Petitions are not maintainable.

5. Accordingly, these Civil Revision Petitions are dismissed, confirming the order dated, 07.03.2015, passed in E.A.Nos.38 and 39 of 2014 in E.P.No.55 of 2012 in O.S.No. 29 of 2006, on the file of the learned Subordinate Judge, Vedachandur. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge, Vedachandur.

+1cc to Mr.S.VINOD SATHIYA, Advocate, SR.No. 62788

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