

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 09.02.2018****CORAM :****WEB COPY****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.R.P. (PD) (MD)No.940 of 2017**

A.Perianan

... Petitioner/Petitioner/Plaintiff

Vs.

1.Palaniammal

2.Thangaraj

... Respondents/Respondents/Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India, to direct the learned Subordinate Judge, Thuraiyur to expedite the hearing in Execution Petition in E.P.No.7 of 2015 in O.S.No.91 of 2005 on the file of the learned Subordinate Judge, Tiruchirappalli transferred and renumbered as E.P.No.17 of 2016 in O.S.No.91 of 2005 on the file of the learned Subordinate Judge, Thuraiyur and dispose of the same within the time frame fixed by this Court.

For Petitioner

: Mr.R.Sundar Srinivasan

ORDER

This Civil Revision Petition has been filed seeking a direction to the learned Subordinate Judge, Thuraiyur, to dispose of the E.P.No.17 of 2016 in O.S.No.91 of 2005, within a stipulated time as fixed by this Court.

2.The learned counsel for the petitioner would submit that the petitioner has filed a suit for permanent injunction against the respondents and the respondents being served with summons entered appearance on 13.06.2005. In spite of several adjournments, they have not filed their written statement and they were set exparte on 11.10.2006. The defendants filed an application to set aside the exparte and the same was allowed on 18.12.2007. When the matter was posted in the list on 07.04.2010, there was no representation for the defendants and they were set exparte for the second time and decree has been passed. Thereafter, the petitioner filed an Execution Petition in E.P.No.7 of 2015 to execute the sale deed. In the said Execution Proceedings, the respondents appeared on 11.03.2015 and sought time to file their counter. Despite several adjournments, they have not filed counter and hence, they were set exparte on 05.08.2015 and the matter was posted for further proceedings. On 19.08.2015, stamp papers were also produced.



Thereafter, the respondents filed an application to set aside the exparte order passed in Execution Proceedings and the same was allowed on 25.02.2016 and the matter was posted for enquiry. After hearing the petitioner's side, it was posted for respondents' side on 20.04.2016 and thereafter, got several adjournments for arguments.

3. According to the petitioner, the respondents are dragging on the issue without any valid reason. The learned Counsel for the petitioner across the bar, would contend that the petitioner is put to hardship due to the pendency of the Execution Petition and therefore, the petitioner has come forward with the present application for early disposal of the Execution Petition.

4. Heard the learned Counsel for the petitioner and perused the materials available on record.

5. The prayer in this petition itself is with a limited scope for speedy disposal of the Execution Petition and therefore, no notice is necessary to the respondents.

6. Considering the fact that the matter is of the year 2005 and the attitude of the respondents in prolonging the matter for years together, this Court is of the view that the interest of justice would be sub-served, if a direction is issued to the learned Trial Court to dispose of E.P.No.17 of 2016 in O.S.No.91 of 2005.

7. In the result, the learned Subordinate Judge, Thuraiyur, is directed to dispose of E.P.No.17 of 2016 in O.S.No.91 of 2005, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8. This Civil Revision Petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Thuraiyur.

+1cc to M/S.R.SUNDAR SRINIVASAN, Advocate SR.No.47579.

C.R.P (MD) No.940 of 2017 (PD)
09.02.2018