



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD) No.1783 of 2016 (NPD)

Mahaboobjohn

... Petitioner

Vs.

1.S.Vanarajaperumal
2.Sankar
3.Iyappan
4.Velmurugan
5.Poothathan
6.Sivasubramanian
7.Santhanakumar
8.Pappammal

... Respondents

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 28.07.2016 made in E.P.No.5 of 2016 in O.S No.44 of 2010 on the file of the Sub Court, Ambasamudram.

For Petitioner : Mr.A.Arumugam
For Respondents : Mr.M.Gangasabapathy for R1
R2 to R8 - given up vide in EB

ORDER

The third defendant in O.S No.44 of 2010 on the file of the Sub Court is the revision petitioner herein. The said suit was filed by the first respondent herein seeking the relief of declaration and recovery of possession. The suit was decreed on 11.12.2013. But, the trial court made it clear that the plaintiff will be entitled to symbolic delivery and not actual delivery. But then, E.P. No.5 of 2016 was filed for actual delivery and the executing court also granted the same. Questioning such an order, this civil revision petition has been filed.

2.This court is of the view that the executing court cannot go beyond the terms of the original decree which is sought to be executed. When the original decree itself contemplates that the plaintiff is entitled to symbolic delivery and not to actual delivery, the executing court cannot grant actual delivery. Therefore, the order impugned in this civil revision



WEB COPY

2

petition is set aside. This civil revision petition is allowed.
No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Subordinate Judge, Ambasamudram.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

SKM

TE/SV/SAR-2 : 10/10/2018 : 2P/4C

CRP (MD) No.1783 of 2016 (NPD)
12.09.2018