



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(NPD) (MD)No.2138 of 2016

Ponnudurai : Petitioner/Petitioner/Plaintiff

Vs.

Chella Shanmugavel : Respondent/Respondent/Defendant

Prayer: Civil Revision Petition is filed under section 115 of the Code of Civil Procedure, against the fair and decreetal order, dated 08.10.2015 passed in E.P.No.33 of 2015 in O.S.No.146 of 2008 on the file of the Principal Sub court, Tirunelveli and to allow the same.

For Petitioner : Mr.T.Selvan

For Respondent : Mr.P.Banuprasath

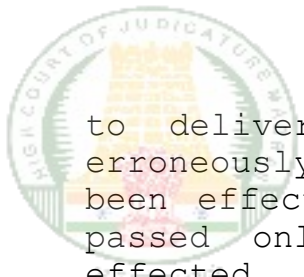
O R D E R

This civil revision is filed against the order dated 08.10.2015 passed in E.P.No.33 of 2015 in O.S.No.146 of 2008 on the file of the Principal Sub court, Tirunelveli, dismissing the execution petition to deliver the property.

2. The petitioner is the plaintiff in the suit. The petitioner has filed the suit in O.S.No.146 of 2008 for specific performance. The case was settled between the parties in the Lok Adalat dated 14.11.2013, thereafter a sale deed was executed by the respondent/defendant in favour of the petitioner/plaintiff and this application was filed for delivery of schedule property. In execution petition, the respondent / defendant has filed a memo stating that he has no objection to deliver the schedule property. But the learned Judge without considering the same has dismissed the execution petition. Aggrieved over the same, the petitioner has filed the present Civil Revision Petition before this Court.

3. Heard the learned Counsel on either side and perused the materials available on record.

4. It is seen from the records that the Lok Adalat order was passed on 14.11.2013. The execution petition for delivery has been filed on 20.11.2014. It is the case of the respondent that though the sale deed has been executed, till date delivery is not ordered. The defendant has also filed a memo stating that he has no objection



to deliver the schedule property. But the Court below has erroneously dismissed the petition holding that delivery has already been effected on 11.11.2003. When the Lok Adalat order has been passed only on 14.11.2013, the delivery could not have been effected. The Court below has mistakenly arrived at the said conclusion.

5. In view of the above submission and also considering the above facts and circumstances of the case, this Court feels that ends of justice would be met if this revision is allowed.

6. In the result, this revision is allowed and the order dated 08.10.2015, passed in E.P.No.33 of 2015 in O.S.No.146 of 2008 on the file of the learned Principal Subordinate Judge, Tirunelveli, is set aside and the matter is remanded back to the file of the learned Trial Judge for passing fresh order, in accordance with law in E.P.No.33 of 2015 in O.S.No.146 of 2008, within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

The Principal Subordinate Judge,
Tirunelveli.

+One cc to Mr.T.Selvan, Advocate, SR.No.53433

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RL/3C/2P/SKN/RSK/SAR1/6/4/2018

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