



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (NPD) (MD) No.1617 of 2013

and

M.P. (MD) Nos.1 of 2013

1.Munusamy

2.Nallaponnu

:Petitioners

vs.

1.Duraipandi

2.Pitchaiammal

:Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Code Civil Procedure, against the order of delivery, dated 11.09.2013, made in E.P.No.16 of 2011, in O.S.No.1171 of 1981 on the file of the District Munsif Court, Tirumangalam.

For Petitioners : Mr.T.Vadivelan

For Respondents : Mr.J.Lawrance

ORDER

This civil revision petition is filed against the order, that was passed in the execution petition for delivery in E.P.No.16 of 2011, in O.S.No.1171 of 1981 on the file of the District Munsif Court, Tirumangalam.

2.The defendants, who are respondents in E.P.No.16 of 2011 in O.S.No.1171 of 1981 on the file of the District Munsif Court, Tirumangalam, are the revision petitioners. The suit in O.S.No.1171 of 1981 was filed by the respondents herein for partition and separate possession of their shares in suit 'C' schedule property and for other consequential reliefs.

3.Though the matter has reached finality on the basis of a compromise in civil appeal in C.A.No.739 of 2001, on the file of the Honourable Supreme Court and by order of Honourable Supreme Court, dated 25.11.2008, the properties that were to be given to the respondents herein, were not handed over and that, therefore, the respondents have filed an application for delivery of possession pursuant to the compromise decree that was passed in



C.A.No.739 of 2011.

4.In the compromise, it has been undertaken that the property, which are the subject matter of this revision petitions, have to be given to the first respondent. It appears that the Counsel for the defendants filed a memo on 10.07.2013, before the lower Court stating that the revision petitioners / defendants would hand over the property, as agreed in the compromise memo, before Honourable Supreme Court and sought time till 31.08.2013. However, this was not done. After recording the fact, the lower Court directed delivery of possession of the petition mentioned property to the first respondent by allowing the execution petition. As against the same, the present civil revision petition has been filed.

5.In the memorandum of grounds, the petitioner has not even raised any one valid ground to sustain this revision petition. As recorded by the lower Court, the revision petitioners, who had agreed to hand over the properties to the first respondent, has not done so, though a consent order was passed by Honourable Supreme Court, based on compromise.

6.A new plea is taken with regard to the identity of the property, which was never pleaded before the Court below or earlier before any forum. Since the revision petitioners' conduct is utter disregard to their own undertaking given before the Honourable Supreme Court, the petitioners have projected themselves as persons, who do not care for law and even prepared to do something in violation of their undertaking given before the Honourable Supreme Court. The revision petitioners are even liable to be prosecuted for contempt. Since the order passed by the lower Court is on the basis of the records and admitted facts and supported by reasons, this Court is not inclined to interfere with the findings of the same.

7.As a result, this civil revision petition is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1.The District Munsif Court,
<https://hcservices.ecourts.gov.in/hcservices/>
Tirumangalam.



2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+2ccs to Mr.J.Lawrance, Advocate in Sr.Nos. 64686,64689
+1cc to Mr.T.Vadivelan, Advocate in Sr.No. 64840

cmr

AE/JC/SAR3/17.05.2018/3P/7C

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