

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.R.P.(NPD).Nos.3418 & 3419 of 2013

and

M.P.Nos.1 & 1 of 2013

Madiazhagan

... Petitioner/Defendant
in CRP.(NPD).No.3418/2013

A.Ramakrishnan

... Petitioner/Defendant
in CRP.(NPD).No.3419/2013

vs.

The Special Officer,
Sri Darbaranyeswara Swamy Devasthanam,
Thirunallar,
Karaikal Munsif.

... Respondent/Plaintiff
in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Section 115 of Code of Civil Procedure to set aside the order passed in E.P.Nos.14, 17 of 2011 in O.S.Nos.242, 232 of 2000, dated 22.07.2013, on the file of the learned Principal District Munsif at Karaikal.

For Petitioner
in both petitions : Ms.Gopika Nambiar
for M/s.Sai Bharath and Ilan

For Respondent
in both petitions : Mr.Srinath Sridevan

COMMON ORDER

The revision petitioners are the Judgment Debtors in E.P.Nos.14, 17 of 2000 in O.S.Nos.242, 232 of 2000, on the file of the learned Principal

District Munsif, Karaikal. The respondent is the Special Officer, Sri Darbaranyeswara Swamy Devasthanam, Thirunallar, Karaikal and he filed a suit in O.S.Nos. 242, 232 of 2000, for ejectment of the present petitioners from the suit premises and the said suit was decreed by the learned Principal District Munsif at Karaikal, on 30.06.2003. Aggrieved over the same, the present revision petitioners filed an appeal in A.S.No.4 of 2004 and A.S.No.10 of 2005, before the learned Additional District Judge, Pondicherry, Karaikal.

2 The learned Additional District Judge, Pondicherry at Karaikal, upheld the decree and judgment passed by the learned Principal District Munsif, Karaikal, vide his decree and judgment dated 18.10.2005. The revision petitioners filed the Second Appeals in S.A.Nos. 267, 275 of 2006, before this Court and this Court also dismissed the Second Appeals filed by the revision petitioners.

3 Thereafter, the respondent filed the execution petitions before the learned Principal District Munsif, Karaikal in E.P.Nos.14, 17 of 2011 in O.S.Nos. 242, 232 of 2000. In the said petitions, the revision petitioners filed a counter, contending that the description of the suit

property is not properly indicated in the plaints in O.S.Nos. 242, 232 of 2000 and that the said property cannot be identified. The another contention of the revision petitioners in their counters is that after passing of the decree, the place of the shop premises, which is not a permanent super structure, has been shifted to another place and therefore, the decree cannot be executed. These allegations of the revision petitioners were not accepted by the learned Principal District Munsif and his order dated 22.07.2013, directed the revision petitioners to hand over the petition mentioned property to the respondent/deGREE holder by 26.08.2013. Now, the present revision petitions have been filed by the judgment debtors/defendants .

4 Ms.Gopika Nambiar for M/s.Sai Bharath and Ilan, the learned counsel appearing for the revision petitioners contended that the learned Principal District Munsif without considering the various contentions raised by the Judgment Debtors in their counters, had passed an order without assigning any reason. She also drew attention of this Court to paragraph No.5 of the order passed by the learned Principal District Munsif, Karaikal and contended that, the learned Principal District Munsif has passed a non speaking order. The other contention raised is that the decree cannot be executed, since, the property cannot be identified.

5 Per contra, the learned counsel appearing for the respondent/decreed holder would contend that there is no dispute with regard to the identity of the suit property, since it is a shop inside the premises of the Sri Darbaranyeswara Swamy Devasthanam, Thirunallar, Karaikal and the suits in O.S.Nos. 242, 232 of 2000 were decided in favour of the decreed holder/plaintiff and even in the Second Appeal, the decrees and judgments passed by the both the trial Court and the First Appellate Court were upheld.

6 From a perusal of the orders passed by the learned Principal District Munsif in E.P.Nos. 14, 17 of 2011 in O.S.Nos. 242, 232 of 2000, it is seen that the learned Principal District Munsif has merely contended that the objections made by the petitioners/judgment debtors are not sustainable and therefore, as per the decree passed in O.S.Nos.242, 232 of 2000, the petitioners/judgment debtors are entitled for delivery of petition mentioned property. The first contention of the petitioners/judgment debtors is that the property cannot be identified since there are no boundary discretion in the suit property. The Executing Court cannot go beyond the decree and a perusal of the decree and judgment passed by the Courts below clearly reveals that there is no dispute over the

identification of the suit property.

7 The next contention raised by the revision petitioners that the suit property, which is not a permanent structure, has been shifted to some other place, has not been substituted by any acceptable evidence. In fact the learned counsel appearing for the revision petitioners during the course of arguments contended that she is giving up this claim of the revision petitioners/judgment debtors. In any event, both the contentions raised by the revision petitioners cannot be sustained and this is the reason why the Executing Court had clearly recorded that the objections raised by the revision petitioners are not sustainable. I find no reasons to interfere with the findings recorded by the learned Principal District Munsif, Karaikal.

8 In the result, these Civil Revision Petitions stand dismissed and the order passed in E.P.Nos.14, 17 of 2011 in O.S.Nos. 242, 232 of 2000, dated 22.07.2013, on the file of the learned principal District Munsif at Karaikal is confirmed. No cots. Consequently, connected miscellaneous petitions are also closed.

11.06.2019

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R.HEMALATHA, J.

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Index : Yes/No
Speaking/Non-speaking order

To

1.The Special Officer,
Sri Darbaranyeswara Swamy Devasthanam,
Thirunallar,
Karaikal Munsif.

2.The Principal District Munsif,
Karaikal.

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