

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3338 of 2019 and C.M.P.No.21686 of 2019

1.K.Sridharan
2.Gisha
3.Shijha

... Petitioners

-Vs-

1.M.C.Chandrasekar
2.M.Selvaraj
3.E.Kaliappan
4.Lakshmi
5.Sarsal
6.E.Selvaraj
7.Parvathi

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to direct to number the unnumbered I.A.No.____/2018 in Unnumbered CMA No.____/2018 against E.A.No.45 of 2015 in E.P.No.14 of 2002 in O.S.No.21 of 1987 S.No.53/20 on the file of the Sub Court, Sathyamangalam, Erode District.

For Petitioners : Mr.I.C.Vasudevan
For Respondents : No appearance

O R D E R

This revision has been filed seeking for a direction to number the unnumbered I.A.No.____/2018 in Unnumbered CMA No.____/2018 against E.A.No.45 of 2015 in E.P.No.14 of 2002 in O.S.No.21 of 1987 S.No.53/20 on the file of the Sub Court, Sathyamangalam, Erode District.

2. Heard the learned counsel for the petitioner, who would submit that before the Execution Court, E.P. was filed by the decree holder against the judgment debtor in respect of the suit property, which was purchased already by the present revision petitioner. Therefore, on that ground, he filed I.A., before the Execution Court invoking Order 21 Rule 99 of C.P.C., and the said I.A., was dismissed, as against which, the revision petitioner preferred Miscellaneous Appeal before the first appellate Court in C.M.A.No.____/2018 and along with the CMA, I.A.No.____/2018 was filed to stay the operation of

the execution proceedings. However, the first appellate Court, in the impugned written memo, by way of a docket order dated 06.12.2018 rejected the C.M.A., papers itself by stating the reason that, the said Court has no jurisdiction to entertain the appeal. As against the said docket order of returning the CMA papers, the present revision has been filed.

3. I have gone through the relevant provisions of C.P.C., which discloses that if any order is passed under Order 21 Rule 99 of C.P.C., that is not an appealable order within the meaning of Order 41 of C.P.C., and therefore there is every justification on the part of the first appellate Court to reject the papers of CMA for want of jurisdiction and this Court feels that no interference is called for in the said decision of the first appellate Court.

4. In that view of the matter, the Civil Revision Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed. However, it is made clear that, the dismissal of this C.R.P., will not preclude the revision petitioner to work out his remedy against the order passed by the Execution Court in his application filed under Order 21 Rule 99 of CPC in the manner known to law, by filing appropriate proceedings in the appropriate forum.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

KST

To

The Subordinate Judge,
Sathyamangalam, Erode District.

+1cc to Mr.I.C.Vasudevan, Advocate SR.86838

C.R.P. No.3338 of 2019

(CO)
CB(19/11/2019)

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