



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

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THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P(PD) (MD)No.1210 of 2011

and

M.P.(MD)No.1 of 2011

1.N.Radha Bai
2.C.Lakshmi Bai
3.C.Babu
4.M.Jayaraman
5.D.Srinivasan

: Petitioners/Petitioners/Defendants

.. Vs ..

1.Maruthambal
2.R.Balaguru
3.R.Baskar @ Selvaraj
4.R.Gunasekarn

: Respondents/Respondents/Plaintiffs

PRAYER: Civil Revision Petitions filed under Section 115 of Civil Procedure Code, praying to set aside the fair and decretal order dated 15.06.2011 made in E.P.No.100 of 2010 in O.S.No.101 of 2005 on the file of Fast Track Court No.1, Tiruchirappalli and allow this Revision Petition.

For Petitioner : Mr.L.Irulappan

For Respondents : Mr.K.S.Sankar Murali

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ORDER

This Civil Revision Petition is directed against the order of delivery dated 15.06.2011 in E.P.No.100 of 2010 in O.S.No.101 of 2005 on the file of the District Court cum Fast Track Court-I, Tiruchirappalli.

2.The respondents in this Civil Revision Petition filed a suit for declaration of title and for recovery of possession in

<https://hcservices.ecourts.gov.in/hcservices/>



O.S.No.101 of 2005 on the file of the District Court, Tiiruchirappalli. Pursuant to the decree for recovery of possession, the respondents filed an execution petition in E.P.No.100 of 2010. The judgment and decree in O.S.No.101 of 2005 was on merits and the revision petitioners have preferred appeal in A.S.No.176 of 2010 and the appeal in A.S.No.176 of 2010 was also dismissed on 26.07.2011. Subsequently, the revision petitioner stated to have preferred a Special Leave Petition before the Hon'ble Supreme Court in S.L.P.Nos.28037 and 28038 of 2011 and the same was dismissed by order dated 21.10.2011. After the disposal of the Special Leave Petition, it is further stated that the delivery was effected and the respondents took delivery on 03.08.2012. The delivery was also recorded subsequently. It is in the said circumstances, the learned Counsel appearing for the respondents pointed out that the objection raised by the revision petitioners for the delivery is by citing the pendency of the first appeal before this Court in A.S.No.176 of 2010. It is in the said circumstances, the learned Counsel appearing for the respondents stated that nothing survives in this Civil Revision Petition and the same may be dismissed as infructuous.

3.The learned Counsel appearing for the petitioners is unable to respond to the specific statement of the learned Counsel for the respondents. The execution petition filed by the respondents before the lower Court was opposed only on the ground that the further appeal preferred by the revision petitioners is pending before this Court. It is further stated by the revision petitioners that the execution petition filed during the pendency of the appeal preferred by the revision petitioners is an abuse of process of law. Since no other valid objection was raised with regard to the maintainability of the execution petition, this Court is unable to find any substance or merits in the objection raised by the revision petitioners before the lower Court in the light of the disposal of the appeal by this Court in A.S.No.176 of 2010. Since the decree passed by the trial Court has now been upheld by the Hon'ble Supreme Court, the Civil Revision Petition has no merits. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To
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The District Judge cum Fast Track Court-I,
Tiruchirappalli.

+1 CC to M/s.K.S.SANKAR MURALI, Advocate (SR-79854[F] dated
06/08/2019)

+1 CC to M/s.I.IRULLAPPAN, Advocate (SR-79834[F] dated
05/08/2019)

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SRM

AE/ (19.08.2019) 3P 4C