



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM

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

C.R.P(PD) (MD)No.1246 of 2011

and

M.P.(MD)No.1 of 2010

WEB COPY

Samson Debase

: Petitioner/Petitioner/
Respondent 1/Defendant 5

.. Vs ..

1.Anbiah Fernando @ X.A.Datroos (Died)

2.Jerold Datroos

3.Rajeswari Jawahar

4.Diona

5.Dester

6.Morning Star

7.Anusuya Giretta

: Respondents/Respondents/
Petitioners/Plaintiffs

8.Viruchachal

: Respondent/Petitioner/
Respondent 4/Defendant 8

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the order dated 26.04.2011 passed in E.A.No.8 of 2011 in E.P.No.22 of 2005 in O.S.No.743 of 1991 by the District Munsif, Sathankulam.

For Petitioner : Mr.G.Prabhu Rajadurai

Respondent 1 : Died

For Respondents : Mr.M.P.Senthil
2 and 3

For Respondents : No appearance
6 & 7

Respondents 4, 5 & 8 : Died

- - - - -

ORDER

This Civil Revision Petition is directed against the order dismissing the petition in E.A.No.8 of 2011 in E.P.No.22 of 2005 in O.S.No.743 of 1991 to stay the order of delivery. The objection appears to be on the ground that an appeal preferred by the revision petitioner is pending. The fact that the petitioner has suffered a decree for recovery of possession is not in dispute. It is also



dismissed for default and of course, there is a possibility of restoration of the appeal. There is no stay and the matter is pending for more than nine years. Hence, the petitioner is not entitled to now object to the delivery on the ground that though the appeal was dismissed for default, it is likely to be restored. This Court is not inclined to interfere with the order of delivery. In case, the appeal is restored and the judgment and decree passed by the lower Court is set aside by the appellate Court, it is open to the revision petitioner to file a petition for restitution.

2.With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Ad-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The District Munsif,
Sathankulam.

+1 CC to Mr.M.P.SENTHIL, Advocate SR-79895.

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate SR-80075.

C.R.P (PD) (MD)No.1246 of 2011
05.08.2019

CS(20.08.2019) 2P 4C