



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

CORAM

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (NPD) (MD) No.2056 of 2010

and

M.P(MD)No.1 of 2010

Subbiah

... Petitioner

-Vs-

1.Antoniyyammal
2.Libanon Arulmani
3.Arulmani
4.Niraimathi Inbaraj
5.Valarmathi Kirubakaran
6.Nimmathi Jeyakumar
7.Mathiraj Arulmani
8.Esther Negomiah
9.Ezhilmani
10.Susila Valarmathi
11.Paul Sundar Singh
12.Nicholas
13.Elango

... Respondents

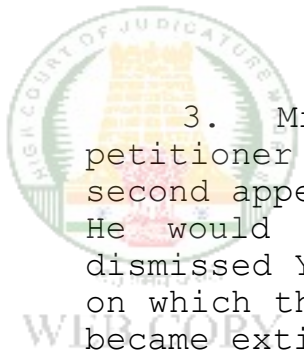
Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 22.04.2010 made in E.P.No.2 of 2009 in O.S.No.5 of 1998 on the file of the Sub Court, Kovilpatti.

For Petitioner : Mr.J.Parekhkumar
For R1 to R7 : Mr.R.Vijayakumar

O R D E R

The petitioner challenges the order of delivery passed in Execution Petition in E.P.No.2 of 2009 dated 22.04.2010. The proceedings arise out of a partition suit, in which, a preliminary decree came to be passed on 07.11.2003. The same was followed by a final decree on 09.06.2008. After the final decree, the decree holders, namely, the plaintiffs filed an execution proceedings in the year 2009. The Executing Court passed orders for delivery on 22.04.2010. Aggrieved, the present Civil Revision Petition has been filed.

2. I have heard Mr.J.Parekhkumar, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned counsel appearing for the respondents 1 to 7.



3. Mr.J.Parekhkumar, learned counsel appearing for the petitioner had taken a few adjournments on the ground that the second appeal against the final decree is pending before this Court. He would now fairly concede that the second appeal has been dismissed Yesterday i.e., on 19.12.2010. Therefore, the only ground on which the stay was granted in the Civil Revision Petition has now become extinct.

4. Mr.J.Parekhkumar, learned counsel appearing for the petitioner would however contend that he was not given a copy of the final decree, despite his efforts and he had moved this Court twice to get the copy of the final decree. His appeal against the final decree was rejected because the lower appellate Court refused to condone the delay in filing the appeal. It is stated that as against the said order, the petitioner has filed another Civil Revision Petition, which is yet to be numbered. Execution proceedings cannot be postponed indefinitely.

5. The petitioner has already prevented the execution for nearly 10 years from April 2010 to till date. I do not see any material irregularity or exercise of excess jurisdiction or refusal to exercise jurisdiction vested in it by the executing court. The order of delivery is perfectly justified and hence, I do not find any ground to interfere with the order under Section 115 of C.P.C. Therefore, the Civil Revision Petition fails and it is dismissed. However, in the circumstances, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

am

To

1.The Sub Court, Kovilpatti.

2. The Record Keeper, V.R.Section, (2 copies)

Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.J.PAREKHKUMAR, Advocate (SR-106203[F]dated 20/12/2019)

+1 CC to Mr.R.VIJAYAKUMAR, Advocate (SR-106271[F]dated 20/12/2019)

C.R.P. (NPD) (MD) No.2056 of 2010

20.12.2019

VB(21.01.2020) 2P 6C