



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2019

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANUC.R.P(PD) (MD)No.903 of 2019andCMP(MD)No.5233 of 2019

Jothi

... Petitioner/3rd Respondent/3rd Defendant

vs.

Cheriyapillai Nadar (died)

Sathianesan (died)

1) Banuvel

2) Devadhas

... Respondents 1 & 2/Petitioners 3 & 4/
Plaintiffs 3 & 4

Rajamony (died)

3) Chinthamony

4) Selvadhas

5) Sarasam

6) Maria Pushpam

7) Beula

8) Hepsi

9) Sheeba

10) Ebenezar

11) Janet

12) John Solomon

13) Rajamony Ismi

14) Herzial

... Respondents 4 to 14/Petitioners 6 & 17/
Plaintiffs

Valliamma (died)

Packianathan (died)

15) Nesammal

16) Selvam

17) Lalithabai

18) Raphi

... Respondents 15 to 18/Respondents 4 to 7/
Defendants 4 to 7

Christal Jeyanthi (died)

19) Lalitharani

20) Nambiyar

21) Razinal

22) Suresh

23) Santhosh

24) Vincent

25) Rosemary

26) Sasikumar

27) S.A.Saniya



28) S.A.Saliya
29) Santhi

... Respondents 19 to 29/Respondents 9 to 19/
Defendants

Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed by the Principal District Munsif Court, Kuzhithurai, in E.P.No.19 of 2017 in O.S.No.658 of 1974 dated 27.02.2019.

For Petitioner : Mr.K.P.Narayanakumar
For Respondents : Mr.G.Vidhya Maheswaran

ORDER

Against the order passed in E.P. to deliver the property, this revision is filed by the 3rd defendant.

2.The plaintiffs filed O.S.No.658 of 1974 for declaration, recovery of the possession and realisation of the rental arrears in respect of the suit property. The suit was decreed by the Trial Court which was set aside by the first appellate Court and on second appeal, this Court confirmed the judgment and decree of the Trial Court. Thereafter, the decree holders filed E.P. in which, the Executing Court ordered delivery of the suit property, against which, the 3rd defendant has filed this revision.

3.Learned counsel for the petitioner would contend that the Executing Court ordered delivery of the suit property by removing Door No.9/55A, but no such door number is available in the suit property and further, the extent of properties mentioned in the execution petition differs and therefore, the order of the Executing Court is liable to be set aside.

4.Learned counsel for the respondents would submit that the matter went upto the stage of second appeal in which, the judgment of the Trial Court was confirmed by this Court and despite opportunities, the judgment debtors did not produce even the number of the review petition stated to have been filed by them to review the judgment in the second appeal and therefore, the Executing Court ordered for delivery which does not require interference by this Court.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6.Perusal of record shows that the Trial Court has passed the decree for declaration and directed the judgment debtors to handover the possession before 18.10.1994 against which A.S.No.31/95 was filed in which, the judgment and decree of the Trial Court was set aside against which, S.A.No.106/2007 was filed and this Court confirmed the judgment and decree passed by the Trial Court and set aside the judgment and decree passed by the



first appellate court and thereafter, the E.P.No.19/2017 was filed by the decree holders for delivery of the suit property, for which, the judgment debtors filed counter stating that they preferred review petition against the judgment passed by this Court in S.A.No.106/2007.

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7. Perusal of record shows that though the learned Judge had given ample opportunity to the petitioner to produce appropriate orders from the High Court, the learned Judge finding that even the review petition number was not given, ordered delivery of the property after removing the structure available in the decree schedule property, in which, I do not find any infirmity.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Munsif,
Kuzhithurai.

+1CC TO MR.K.P.NARAYANAKUMAR, Advocate Sr. No.69899
+1CC TO MR.G.VIDHYAMAHESWARAN, Advocate Sr. No. 69469

C.R.P(NPD) (MD) No.903 of 2019
18.06.2019

NRK(CO)
TR (02.07.2019) 3P 4C