

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.No.775 of 2020 and
C.M.P.No.4119 of 2020

Mumtaj Begum
Petitioner

...

Vs.

1. Mohammed Syed Umma
2.F.Mohammed Salam
3.S.Wahida

...

Respondents

Prayer:- Civil Revision Petitions are filed under Section 115 CPC against the fair and decreetal order dated 02.01.2020 made in E.A.SR.No.9404 of 2019 in E.P. No.1243 of 2016 on the file of the learned IX Assistant City Civil Court, Chennai by allowing the Civil Revision Petition.

For Petitioner : M/s.E.Mohammed Abbas

For Respondent : M.V.Arul - For-R1
No Appearance - For R2 & R3

ORDER

This Civil Revision Petition has been filed by the revision petitioner challenging the order passed by the Court below in EASR.No. 9404 of 2019 in E.P.No. 1243 of 2016.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent and perused the materials available on record.

3. The grievance of the revision petitioner is that the Court below has passed the impugned order without giving opportunity to the petitioner and not decided on merits.

4. The learned counsel for the petitioner further submitted that the 1st respondent herein/Decree holder had filed E.P.No. 1243 of 2016 on the file of IX Assistant City Civil Court, Chennai for execution of the decree passed in O.S. No. 7860 of 2010. The revision petitioner herein had filed his objections to the said execution petition in E.A.SR.No. 9404 of 2019 on the ground that the decree obtained is a fraud and collusive. But the Court below, without going

into the merits of the case and without giving any opportunity to the revision petitioner, had rejected the application at the SR stage itself.

5. The learned counsel appearing for the 1st respondent would submit that the Court below may be directed to take up the case on file and conclude the same within a time frame as fixed by this Court in the light of the decision rendered by this Court reported in 2015 4 CTC (1) .

6. Considering the facts and circumstances of the case and the submissions made by the learned counsels appearing on both sides, the following directions are issued;

i. Fair and decreetal order dated 02.01.2020 made in EA.SR.No. 9404 of 2019 in E.P. No. 1243 of 2016 passed by the IX Assistant City Civil Court (Execution Court) Chennai is set aside.

ii. The Execution Court is directed to number the EA, if it is otherwise in order and decide the Appeal after providing due opportunities to the parties concerned on or before 30.04.2020, if there is no legal impediment.

With the above directions, the Civil Revision Petitions is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The IX Assistant Judge,
City Civil Court,
Chennai.

+2cc to Mr.V.Arul, Advocate, S.R.No.24164, 24024
+1cc to Mr.E.Mohamed Abbas, Advocate, S.R.No.23997

MP (CO)
CB(16/07/2020)