

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAM

C.R.P.No.2500 of 2018 and

C.M.P.No.15265 of 2018

Hasmath Bi (died)

1.Abdul Salam

2. Jaghara Bi

...Petitioners

.Vs.

Renugambal (died)

1. K.Sivagurunathan

2. K.Manoharan

3. K.Jayakumar

...Respondents

Prayer : Civil Revision Petition is filed under Section 115 of Civil Procedure Code against the Fair and Decreetal order in E.A.No.Nil of 2018 in E.P.No.22 of 2016 dated 26.07.2018 passed by the learned Additional District Munsif Court at Vellore and thereby allow the above Civil Revision Petition.

For Petitioners: Mr.B.Sundarapandiyan

For Respondents: Mr.P.Seshadri

O R D E R

The petitioners, who had suffered an order of eviction at the hands of the Rent Control Authorities had filed an application under Order 21 Rule 97 of the Code of Civil Procedure opposing of the execution of the decree in the RCOP. The learned Executing Court had rightly dismissed the same on the ground that an application under Order 21 Rule 97 of the Code of Civil Procedure will not lie on the instance of the judgment debtor, hence the Revision.

2. I have heard Mr.B.Sundarapandiyan, learned counsel appearing for the petitioners and Mr.P.Seshadri, learned counsel appearing for the respondents.

3. The claim of the petitioners seems to be that execution is being levied against the property, which is not subject matter of the property in Rent Control Original Proceedings, if that is the claim, that too at the instance of the Judgment debtor, it is open to them to oppose the execution and they cannot file an application under Order 21 Rule 97 Code of Civil Procedure, which is meant for 'investigation for rival claims of title'. Hence rejection of the application by the Executing Court is upheld and the Revision fails and is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

To

The Additional District Munsif Court,
Vellore.

+lcc to Mr.P.Seshadri, Advocate, S.R.No.38579

C.R.P.No.2500 of 2018 and
C.M.P.No.15265 of 2018

vsn ii (co)
rr ii (23/12/2020)

सत्यमेव जयते

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