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IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 05.11.2020]

[ORDERS PRONOUNCED ON : 20.11.2020]

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P. [NPD] NOS.1867, 1966 & 1967 OF 2020
AND

C.M.P.NOS.11220, 12233 & 12234 OF 2020

1. P.Masilamani

2. M.Maheswari ... Petitioners in C.R.P.No.1867/2020
/Defendants

1. P.Masilamani

2. Mahesh ... Petitioners in C.R.P.Nos.1966
and 1967/2020/Defendants

.. Vs ..

V.Lakshmi

... Respondent in all C.R.Ps./Plaintiff

Prayer in C.R.P.No.1867/2020:- Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decreetal order dated 16.03.2020 made in E.A.No.6 of 2020 in E.P.No.184 of 2018 in O.S.No.130 of 2007 on the file of the learned II Additional Subordinate Judge, Coimbatore.

Prayer in C.R.P.Nos.1966 & 1967/2020:- Civil Revision Petitions are filed under Section 115 of C.P.C., against the fair and decreetal order dated 03.02.2020 made in E.A.Nos.3 and 2 of 2020 respectively in E.P.No.184 of 2018 in O.S.No.130 of 2007 on the file of the learned II Additional Subordinate Judge, Coimbatore.

In All C.R.Ps.

For Petitioners : Mr.G.Jeremiah



COMMON ORDER

All the above three Civil Revision Petitions are filed by the Judgment Debtors against the orders passed by the learned II Additional Subordinate Judge, Coimbatore, in E.A.Nos.6, 3 and 2 of 2020 respectively in E.P.No.184 of 2018 in O.S.No.130 of 2007, dated 16.03.2020, 03.02.2020 and 03.02.2020 respectively.

2. Heard Mr.G.Jeremiah, learned counsel for the petitioners. He would contend that the Second Appeal preferred by the Judgment Debtors against the order of dismissal of the First Appeal is pending consideration before this Court and hence, till the disposal of the Second Appeal, delivery of possession will be stayed and hence, he filed three civil miscellaneous petitions to stay the delivery of possession in E.P.No.184 of 2018. The C.R.P is preferred against the order passed in E.A.No.6 of 2020. E.A.No.2 of 2020 was preferred by the Decree Holder seeking for a direction to the Village Administrative Officer concerned to give necessary assistance to the Court Ameen to effect delivery of possession as mentioned in the petition, while E.A.No.3 of 2020 was filed by the Decree Holder, to give necessary direction to the Court Ameen to break open the property to effect the delivery of the petition mentioned property. E.A.No.6 of 2020 was dismissed while E.A.Nos.3 and 2 of 2020 were allowed. As against the said orders passed by the learned II Additional Subordinate Judge, Coimbatore, the above three Civil Revision Petitions are filed by the Judgment Debtors.

3. On a perusal of the records, it is seen that the Original Suit in O.S.130 of 2007 was filed by the respondent/Decree Holder seeking for the relief of specific performance along with the alternate relief and the same was allowed on 18.04.2011 and aggrieved against the grant of decree of specific performance of the suit sale agreement, the defeated defendants have filed A.S.No.85 of 2011 before the Principal District Court, Coimbatore and the same was dismissed by the First Appellate Court on 27.06.2012. The Trial Court has made an observation that after disposal of the First Appeal in the year 2012, the Judgment Debtors have not taken any steps to file any appeal and hence, the Decree Holder has filed E.P.No.184 of 2018 for execution of the Sale Deed. Copies were served upon the Judgment Debtors, the revision petitioners herein and they have not contested the case and hence, the Court has executed the Sale Deed in favour of the Decree Holder in the year 2013. Thereafter, for eight long years, the revision petitioners/Judgment Debtors have not preferred any Second Appeal. On verification of the number given by the revision petitioners herein, it is found that the Second Appeal is only in S.R. stage in S.A.SR.No.20846 of 2020 with a petition to condone the delay of long years.



4. Taking into consideration the long pendency of the case and also the fact that the revision petitioners/Judgment Debtors have not shown any interest to file an appeal for 8 years, the Execution Court has rightly rejected the application in E.A.No.6 of 2020 filed by the Judgment Debtors holding that since the suit was filed in the year 2007; decree was granted in the year 2011; First Appeal was dismissed in the year 2012; the Second Appeal is now said to have been filed after the delivery was ordered that too with long delay and the Second Appeal itself is not yet numbered and not yet admitted before this Court. The trial Court has further observed that if the Judgment Debtors succeeded in the Second Appeal, they can file Restitution Petition under Section 144 of C.P.C. and accordingly, rejected E.A.No.6 of 2020.

5. Taking into consideration the entirety of the circumstances, I find that the orders passed by the Execution Court does not suffer from any irregularity or illegality warranting interference. After eight long years, the revision petitioners have preferred the Second Appeal and the same is yet to be numbered and yet to be admitted and hence, deferring delivery of possession on the factual circumstances, there will be great injustice to the petitioners and hence, I find that the orders passed by the learned Second Additional Subordinate Judge, Coimbatore, need not be interfered with and the same are liable to be dismissed.

6. In the result,

[i] C.R.P.No.1867 of 2020 is dismissed.

[ii] In respect of C.R.P.Nos.1966 and 1967 of 2020 are concerned, E.A.No.3 of 2020 was filed for a direction to break open the property and delivery of possession and E.A.No.2 of 2020 was filed for a direction to the concerned Village Administrative Officer to give necessary assistance to the Court Ameen to effect delivery of possession. In view of the order passed in C.R.P.No.1867 of 2020, both C.R.P.Nos.1966 and 1967 of 2020 also fail and the same are dismissed.

[iii] No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CJ CONF)

// True Copy //

Sub Assistant Registrar

Jr1



To

The II Additional Subordinate Judge,
Coimbatore.

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C.R.P. [NPD] Nos.1867, 1966 & 1967/2020

BP(CO)
RLP(27/09/2021)