

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No. 4147 of 2018
and
C.M.P.No. 22874 of 2018

Ganesa Achari ...Petitioner/Judgment Debtor/
Defendant

Vs.

Sagunthalammal ..Respondent/Decree Holder/
Plaintiff

Prayer: Civil Revision Petition filed under Section 115 of C.P.C, against the order dated 31.10.2018 made in E.P.No. 13 of 2017 in O.S.No. 663 of 1993 on the file of the District Munsif Court, Chengalpattu.

For Petitioners : Mr.S.Janarthanan
for Mr.R.A.S.Senthilvel
For Respondent : Mr.S.Vasudevan

O R D E R

The petitioner, who has suffered an order of delivery in E.P.No. 13 of 2017 has come up with this revision challenging the same. The respondent filed a suit in O.S.No. 663 of 1993 on the file of the District Munsif Court, Chengalpattu seeking declaration of her title to the B schedule property and for possession of the same. The suit was dismissed on 11.12.2001. Aggrieved, the plaintiff preferred an appeal in A.S.No. 54 of 2002. The appeal was allowed and the suit was decreed on 03.11.2010. Aggrieved, the defendant preferred second appeal in S.A.No. 756 of 2011. The said second appeal came to be disposed of by this Court on 13.02.2017 and the decree granted was confirmed. Thereafter, the respondent / decree holder launched execution proceedings in E.P.No. 13 of 2017. The executing Court by an order dated 30.10.2018 directed the delivery.

3. In the execution petition, the important objection that was raised was that the petitioner was not given an opportunity to revert the documents that has been produced in A.S.No.54 of 2002. The said objection has been rightly rejected by the executing Court on the ground that the executing Court cannot go behind the decree and test the validity of the decree. Having suffered a decree for possession, the petitioner cannot delay execution of decree any further. I do not see any illegality or material irregularity in the order of the Trial Court in order to enable me to entertain this revision filed under Article 227 of the Constitution of India. Hence, this civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

4. Mr.S.Janarthanan, learned counsel for the petitioner would seek time to vacate. Considering the fact that the litigation has been pending, the petitioner has granted six months time i.e. till 30th April, 2021 to vacate and deliver vacant possession of the property. The petitioner shall file an affidavit undertaking to vacate and deliver vacant possession by 30-04-2021, on or before 29.09.2020, failing which, the respondent will be at liberty to execute the decree as per the order of delivery passed by the Trial Court.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kkn

To:-

The District Munsif Court,
Chengalpattu.

C.R.P.No. 4147 of 2018

and

C.M.P.No. 22874 of 2018

KJ (VO)

RMP (12/10/2020)

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