



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)No.959 of 2020

and

C.M.P. (MD)No.6245 of 2020

1.M.Gopalsamy
2.G.Pandiselvi

...Revision Petitioners/Petitioners/
Petitioners/Respondents/Third Party
vs.

S.Subbulakshmi

... Respondent/Respondent
Respondent/Petitioner/Plaintiff

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and final order dated 30.01.2020 made in E.A.No.65 of 2019 in E.A.No.54 of 2019 in E.P.No.32 of 2018 in O.S.No.106 of 2012 on the file of the District Munsif, Virudhunagar by allowing this Civil Revision Petition.

For Petitioners : Mr.P.Santhoshkumar

ORDER

The respondent herein has obtained a decree for recovery of property. When she laid an execution petition in E.P.No.32 of 2018, the revision petitioner herein has filed E.A.No.54 of 2019 under Order 21 Rule 97 CPC obstructing delivery. In this, the revision petitioner has filed E.A.No.65 of 2019 for appointing a Commissioner to assess the value of the property to be delivered. This Petition came to be dismissed, which in this Court's opinion rightly so.

2. The reasons can be explained: When a third party obstructs the execution of a decree under Order 21 Rule 97 CPC, in essence obstructor seeks better title to the property than the one the decree holder has. When the Execution Court is called upon to decide the relating merit of the title of the decree holder and that of the third party -obstructor, in the eventuality of the obstructor convincing the Court about his better title, he will have his right declared ver the property, irrespective of the valuation of the property. In other words, value of the property has nothing to do with the title of any of the third party obstructor.

3. In conclusion, this Court does not find any merit in this petition. Accordingly, this Civil Revision Petition is dismissed.



WEB COPY

C.R.P.(PD)(MD)No.959 of 2020

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ta

To

- 1.The District Munsif, Viruthunagar.
- 2.The Section Officer, (2Copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P. (MD) No. 959 of 2020
04.12.2020

MK (CO)

KB (08.01.2021) 2P 4C