

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 23.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. (NPD) No.278 of 2021

M.Kesavan

...Petitioner/Petitioner

Vs

A.Jayaraman

...Respondent/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned Subordinate Judge, Poonamalle, to dispose of the E.P.No.65 of 2018 in O.S.No.21 of 1994 pending on the file of Subordinate Judge, Poonamalle, within a reasonable time frame in the interest of justice.

For Petitioners : Mr.C.V.Vijayakumar

O R D E R

The limited prayer sought for in the present petition is to dispose of the execution proceedings within the stipulated time.

2. The learned counsel for petitioner would submit that the petitioner/decreed holder is not able to enjoy the fruits of the specific performance decree dated 11.04.2000 passed in O.S.No.21 of 1994 and the learned Subordinate Judge, routinely adjourning the E.P.No.65 of 2018 for delivery of vacant possession of suit scheduled property removing the obstructions, if any, from time to time more than a month every time, when the matter came up for orders. Further, he would submit that the learned judge failed to take serious note of the fact that the judgment debtor/respondent herein had dragged the E.P.No.63 of 2009 filed by the petitioner/decreed holder for 7 years and the respondent/judgment debtor failed to execute the registration of the sale deed for more than 7 years by taking adjournments in E.P.No.63 of 2009. Further, he would state that the learned Judge failed to take into account the judgment debtor's/respondent's intention and attitude to delay the decision-making process of the Court towards disposal of the E.P.No.65 of 2018 and the judgment debtor/respondent had taken more than one and half years for filing the counter in the above

E.P. Further, the learned judge ought to have passed an order on merits and in accordance with law, after filing the counter dated 11.02.2019 by the judgement debtor/respondent herein by taking into account of the pendency of the above E.P.No.65 of 2018 for the past two years. Hence, the learned counsel for the petitioner prays to allow this petition.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On a perusal of the adjudication orders, it is seen that E.P.No.65 of 2018 in O.S.No.21 of 1994 was pending for enquiry. The Court below had adjourned the matter to 07.04.2021 and when the matter was listed for enquiry on 23.12.2020, the petitioner herein was forced to file E.A.No.47 of 2021 in E.P.No.65 of 2018 and emergent petition to advance the date of the hearing of the case from 07.04.2021 and the same was posted on 01.02.2021. On 01.02.2021, the case has been reposted to 05.02.2021 as the learned Subordinate Judge was on casual leave. Subsequently, the same was adjourned to 08.02.2021 and on that day the emergent petition was once again adjourned to 10.02.2021. There is not much progress thereafter.

5. In view of the stage of the execution proceedings and also taking into account that the suit was originally initiated in the year 1994, there shall be a direction to the learned Subordinate Judge, Poonamallee, to dispose the petition in E.P.No.65 of 2018 in OS.No.21 of 1994 within a period of four months from the date of receipt of copy of this order.

6. Accordingly, the Civil Revision Petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge, Poonamallee.

+1cc to Mr.C.V.Vijayakumar, Advocate SR.NO..11105

AKM/18.03.21/2P-3C/

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