



C.R.P. (NPD) No.2189 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G. CHANDRASEKHARAN

C.R.P. (NPD) No.2189 of 2021
and C.M.P.No.17731 of 2021

Edgah Mosque Charities,
Door No.9, AngappaNaicken Street,
Chennai – 600 001.

.. Petitioner

Vs.

1. G.Indira
2. A.Ibrahim
3. Salehjee
4. Hawa Bi
5. Nazeer
6. Salima

.. Respondents

Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the entire proceedings consequent to the order dated 05.01.2021 pending on the file of the Hon'ble IX Asst. City Civil Court, Chennai, in E.A. No.3 of 2021 in E.P. No.889 of 2018.

For Petitioner

: Mr. M.J.Jaseem Mohamed



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O R D E R

This petition is filed challenging the proceedings in E.A. No.3 of 2021 in E.P. No.889 of 2018 on the file of IX Assistant Judge, City Civil Court, Chennai.

2. Learned counsel for the petitioner submitted that petitioner as plaintiff filed a suit in O.S. No. 6179 of 2009, for ejecting and delivering vacant possession of the suit land, to pay past and future damages for use and occupation and for other reliefs, against the defendants. After contest, the suit was decreed on 19.03.2015. Defendants 1 and 4 filed an appeal suit in A.S. No.123 of 2016 and the same was also dismissed by XVI Additional Judge, Chennai, on 01.12.2016. The petitioner filed an Execution Petition in E.P. No. 889 of 2018, for executing the decree. It is stated that Amin delivered the property on 04.02.2020. However, the first respondent / third party obstructor, filed E.A. No.3 of 2020, praying re-delivery of the property.

3. The learned IX Assistant Judge, City Civil Court, Chennai, while entertaining the petition, recorded the submission of the obstructor that the delivered property does not belongs to the Judgment debtors but belongs to the obstructor. It was also observed that the Bailiff had already recorded the obstruction. Without mentioning the Survey number, warrant was wrongly executed by the bailiff on the second time illegally, but delivery was not



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recorded. Finding that a prima facie case was made out by the obstructor, the learned Judge ordered private notice to the respondents. Challenging the same, this Civil Revision Petition is preferred.

4. Considered the submission by the learned counsel for the petitioner. As seen from the order of the learned IX Assistant City Civil Judge, the petition filed by the first respondent obstructor for re-delivery, was ordered to be taken on file and notice was issued to the respondents therein. No interim or final order was passed in the said petition. Therefore, this Civil Revision Petition cannot be maintained against the order entertaining E.A. No.3 of 2021 and the same deserves to be dismissed. However the learned counsel for the petitioner submitted that as per the Amin's report, the suit property has been delivered to the decree holder and therefore, the possession of the decree holder has to be protected. Hence, this Court directs that the petitioner's possession of the property should not be disturbed until the final adjudication of E.A. No.3 of 2021.

5. With these observations this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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G.CHANDRASEKHARAN, J.,

bkn/rap

To

IX Asst. City Civil Court,
Chennai

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