

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P. (NPD) No.1010 of 2021
and
C.M.P.No.8125 of 2021

1.Chinnaponnu
2.Gnanavadivel
3.Rajendran
4.Maniappan
5.Krishnan
6.Mani

..Petitioners/Petitioners/Judgment Debtors/Defendants

Vs

1.Lakshmi
2.Kannan

..Respondents/Respondents/Decree Holders/Plaintiffs

Civil Revision Petition filed under Section 115 of CPC, to set aside the order 01.02.2021 made in R.E.A.No.14 of 2018 in E.P.No.27 of 2017 in O.S.No.36 of 2013 on the file of the District Munsif Court, Dharmapuri.

For Petitioner .. Mr.C.Mariappan

For Respondent .. No appearance

ORDER

This Revision Petition had been filed by the defendants in O.S.No.36 of 2013 pending on the file of the District Munsif Court, Dharmapuri. The suit has progressed slowly, stage by stage. The suit was filed for a declaration and for injunction restraining the defendants from using a pathway by interfering with the plaintiffs' possession and usage. The suit went through its course as stated above and a judgment and decree was passed on 17.10.2014. The suit was dismissed.

2. Thereafter, A.S.No.19 of 2015 was filed before the Sub Court, Dharmapuri and a Judgment was passed on 07.04.2017. By that said judgment, the Appeal was allowed and the Judgment and Decree of the Trial Court in O.S.No.36 of 2013 was set aside.

3. Thereafter, the plaintiffs filed E.P.No.27 of 2017 on 06.09.2017. Then, a Second Appeal came up to be filed in S.A.No.652 of 2017. A learned Single Judge of this court dismissed the Second Appeal on 11.12.2017 and the Judgment of the Lower Appellate Court granting a decree in favour of the plaintiffs was confirmed.

4. Thereafter in the said Execution Petition, the petitioners filed an Application under Section 47 of the Code of Civil Procedure, 1908. In the meanwhile, they also filed R.A.No.51 of 2018. An order was passed in R.E.A.No.14 of 2018 which is an Application filed under Section 47 of the Code of Civil Procedure, 1908 on 01.02.2021.

5. The said order has been questioned by way of this Revision Petition.

6. It is the case of the petitioners herein that the evidence recorded had not been properly appreciated by the First Appellate Court and by the Second Appeal Court. It had been stated that the Decree and Judgment of both the Appellate Courts have to be declared as null and void.

7. The learned District Munsif had rightly negated such contentions claiming that he cannot be called to examine the Judgments passed by the First and Second Appellate Courts. He had also stated that there are no merits in the petition filed under Section 47 of CPC.

8.As a matter of fact, it had been stated among the various grounds raised herein that the Appellate Courts have exceeded their power and their Judgments must be set aside on the ground of inappropriate use judicial discretionary powers and since they exceeded the scope of law.

9.The revision petitioners herein had an option to approach to move further in accordance with law, if they felt that the learned Single Judge of this Court and also the learned Judge who decided the First Appeal had, in their opinion, exceeded their discretionary power and had exceeded the scope of law and committed inappropriate acts.

10.These are not issues which the learned District Munsif can take up in an application filed under Section 47 of CPC. The said application had been rightly dismissed. I find no reason to interfere with the same. Hence, the Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Internet:Yes/No
Index:Yes/No
smv

To
The District Munsif Court,
Dharmapuri.

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C.V.KARTHIKEYAN,J.

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