

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) No.1898 of 2021
and C.M.P. No.14778 of 2021

1.P.Masilamani
2.Mahesh

...

Petitioners /
Defendants

versus

V.Lakshmi

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Section 115 of the Code of Civil Procedure, to allow the above Civil Revision Petition by setting aside the fair and decreetal order dated 03.02.2020 made in E.A.No.1 of 2020 in E.P.No.184 of 2018 in O.S.No.130 of 2007 on the file of the learned II Additional Subordinate Judge, Coimbatore.

For Petitioners : M/s.S.Murugan

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ORDER

This Civil Revision Petition is preferred against the order dated 03.02.2020 passed by the learned II Additional Subordinate Judge, Coimbatore in E.A.No.1 of 2020 in E.P.No.184 of 2018 in O.S.No.130 of 2007.

2. The learned counsel for the petitioners submitted that, the suit was filed for specific performance of the contract by the respondent. The suit was decreed on 18.04.2011. Against the said judgment and decree, an appeal was filed in A.S.No.85 of 2011 and that was also dismissed on 27.06.2012. The Second Appeal was filed, against the judgment of A.S.No.85 of 2011 and it is yet to be numbered. Meanwhile, the respondent filed E.P.No.184 of 2018 for executing the decree. In the said Execution Petition, the respondent filed E.A.No.1 of 2020 seeking Police Protection for executing the decree along with two applications in E.A.Nos.3 of 2020 and 2 of 2020 respectively, for breaking open the door and the assistance of the Village Administrative Officer. Those two applications had been allowed by the trial Court. Against the said orders, the petitioners filed C.R.P. Nos.1867, 1966 and 1967 of 2020. Those Civil Revision Petitions were dismissed on 20.11.2020. The S.L.P. [Civil] Nos.8262 to 8264 of 2021

filed against the orders passed in C.R.P. Nos.1867, 1966 and 1967 of 2020, came to be dismissed as withdrawn. As said earlier, this Civil Revision Petition was filed, challenging the order passed in E.A.No.1 of 2020 giving Police Protection for executing the decree.

3. He further submitted that, pending Execution Petition, the decree holder sold the property to the third party on 16.08.2021 and therefore, the decree holder cannot continue the Execution Petition. It is seen that the order in E.A.No.1 of 2020 was passed on 03.02.2020. Almost 1½ years after the order was passed in E.A.No.1 of 2020, the sale deed had been executed. Even this Civil Revision Petition is preferred, only on 23.08.2021 against the order passed on 03.02.2020. The delay is unexplained. It appears from the affidavit filed in support of E.A.No.1 of 2020 that while the Court Ameen visited the property on 30.01.2020 to effect delivery of possession, the petitioners with their family members objected / obstructed for effecting the delivery of possession and therefore, this petition was filed.

4. The learned trial Judge, on going through the reasons stated in the affidavit, allowed the applications. This Court finds no reason to interfere with the order of the learned trial Judge, especially when the applications filed for breaking open the door and the assistance of the Village Administrative Officer for their delivery, were allowed and those orders were confirmed in C.R.P.Nos.1867, 1966 and 1967 of 2020. Accordingly, the order passed by the learned II Additional Subordinate Judge, Coimbatore, dated 03.02.2020 in E.A.No.1 of 2020 in E.P.No.184 of 2018 in O.S.No.130 of 2007, is hereby confirmed.

5. Resultantly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

14.09.2021

Speaking order / Non-speaking order

Index : Yes / No

psa/sri

To

The II Additional Subordinate Judge,
Coimbatore.



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G.CHANDRASEKHARAN, J.

psa / sri



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