

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD) No.3814 of 2018 and
CMP.No.21204 of 2018

1.S.Sayee Prasad
2.S.Sayee Prasad

...

Petitioners

Vs

1.T.Palanisamy
2.P.Lakshmanan

...

Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of CPC against the fair and final order passed in EA.No.162 of 2018 in EP.No.48 of 2015 on the file of the Principal District Munsif Court, Coimbatore dated 01.08.2018.

For Petitioners : Mr.T.Sathiyamoorthy
for Mr.Sithirai Anandan

For Respondents : Mr.Sriram
for Mr.L.Mouli

ORDER

This Civil Revision Petition is filed against the fair and final order passed in EA.No.162 of 2018 in EP.No.48 of 2015 on the file of the

Principal District Munsif Court, Coimbatore dated 01.08.2018, thereby dismissing the petition filed under Section 47 of CPC in EP.No.48 of 2015.

2. The respondents filed petition for eviction in RCOP.No.145 of 1998 in respect of the suit property on the ground of wilful default, own use and occupation. While pending the eviction petition, they also filed IA.No.325 of 1999 claiming arrears of rent. In the said application, it was held that the suit in OS.No.435 of 2000 was filed by the petitioners herein for specific performance in respect of the suit property and as such the application under Section 11 (4) of CPC is not maintainable. It was also confirmed by the learned Rent Control Appellate Authority. In the meanwhile, the suit filed by the petitioners was also dismissed by the judgment and decree dated 22.07.2009. In the main RCOP No.145 of 1998, judgment and decree passed in that suit was marked and eviction petition was ordered. On the strength of the order, execution petition was filed in EP.No.48 of 2015. Thereafter, the petitioners preferred appeal in RCA.No.15 of 2016 and the same was also dismissed for default on 31.01.2018.

3. The petitioners without proceeding with the restoration petition, they filed petition under Section 47 of CPC in the execution proceedings and prayed for dismissal of the execution petition. The court below rightly dismissed the petition for the reason that the execution court cannot go beyond the decree and the contention of the petitioner that there is no jural relationship between the petitioners and the respondents, cannot be decided in the application filed under Section 47 of CPC. In fact, thereafter, the petitioners also filed petition under Order 21 Rule 97 of CPC and the same was also dismissed. Therefore, this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

सत्यमेव जयते

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

C.R.P.(N.P.D).No.3814 of 2018

G.K.ILANTHIRAIYAN,J.

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To

The Principal District Munsif,
Coimbatore



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