



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.R.P. (MD) (NPD) No.1319 of 2014

and

M.P. (MD) No.1 of 2014

WEB COPY

K.Mariappan

... Petitioner

-vs-

1.R.Anusuya

2.Purushothaman

3.Kavitha

(R2 and R3 given up

Hence, No notice is necessary)

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the Fair order and Executable Order passed in E.P.No.159 of 2011 in O.S.No.581 of 2006 dated 13.2.2014 on the file of the Additional District Munsif Court, Madurai Town and allow this Civil Revision Petition.

For Petitioner: Mr.M.S.Sureshkumar

For R-1 : Mr.S.Parthasarathy

For R-2 and

R-3 : Given up

O R D E R

This revision petition has been filed seeking set aside the fair and executable order dated 13.02.2014 passed in E.P.No.159 of 2011 in O.S.No.581 of 2006 by the Additional District Munsif Court, Madurai Town.

2.The first respondent/ plaintiff has filed O.S.No.581 of 2006 on the file of the trial Court for the reliefs of declaration, delivery of possession and mesne profits, wherein the petitioner as well as the respondents 2 and 3 have been shown as defendants. The trial Court decreed the suit. In order to execute the decree, the first respondent filed E.P.No.159 of 2011 for delivery and the trial Court has allowed the same and ordered delivery by 03.04.2014, against which, the petitioner has filed the present revision.

3.The learned counsel for the petitioner submitted that against the ex parte decree passed in the suit, the petitioner filed interlocutory application seeking to set aside the same along with delay condonation petition and the petition seeking condonation of delay was allowed and the petition seeking to set aside the



ex-parte decree is pending and that the trial Court has erroneously ordered delivery and therefore, the order passed by the trial Court is liable to be set aside.

4.The learned counsel for the first respondent would strongly oppose to allow this civil revision petition, as the order passed by the trial Court is in order.

5.Heard the learned counsel for the petitioner as well as the learned counsel for the first respondents and perused the materials placed on record.

6.Perusal of records shows that the suit is of the year 2006. The decree was passed in the year 2009 and the order of delivery was passed in the year 2014. Against the decree passed in the suit, the petitioner filed a petition seeking to set aside the same in the year 2012, after a lapse of three years and the said petition is pending. The trial Court, observing that though it is the duty of the Petitioner to produce the details of the said petition, he did not produce the number and particulars of the said petition and accordingly, had rightly ordered the delivery petition by the impugned order, which warrants no interference.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp/msa

To

The Additional District Munsif, Madurai Town

+1 CC to M/s.S.PARTHASARATHY, Advocate (SR-22987[F] dated 16/07/2021)

+1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-23058[F] dated 19/07/2021)

C.R.P. (MD) (NPD) No.1319 of 2014
and

M.P. (MD) No.1 of 2014

16.07.2021

RD(30.07.2021) 2P 4C