



C.R.P. (NPD) No.364 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (NPD) No.364 of 2021

1. Mrs.Rani

2. C.Mutukumar

.. Petitioners

Vs.

1. Mrs.G.Kanmani

2. G.Gopal

3. Azhageasan

4. Chinnasamy

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decreetal order in R.E.A.No.16/2015 in R.E.P.No.82/2012 in OS No.202 of 2010 dated 16.09.2019 passed by the learned Principal Subordinate Judge, Dharmapuri.



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For Petitioners : Mr.B.Sundarapandiyan

For Respondents : No appearance

ORDER

Challenge in this Revision is to an order passed in an application, obstructing execution of a decree for specific performance.

2. Though the application has been filed under Order XXI Rule 58 of the Code of Civil Procedure, it is clear that the provision of law stated is incorrect. The application obstructing execution of a decree for specific performance ought to have been filed under Order XXI Rule 97 of the Code of Civil Procedure. Whether it is an application under Order XXI Rule 58 of the Code of Civil Procedure or under Order XXI Rule 97 of the Code of Civil Procedure, the orders passed thereon are made specifically appellable by Order XXI Rule 58(4) and Order XXI Rule 103 of the Code of Civil Procedure, hence this Revision under Article 227 of the Constitution of India is clearly not maintainable.



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3. Leaving it open to the petitioners to prefer an Appeal against the order passed by the Trial Court, this Revision is **dismissed**. No costs.

4. The pendency of the Civil Revision Petition shall be taken into account by the Appellate Court in considering the delay in filing the Civil Miscellaneous Appeal. The Registry is directed to return the certified copies of the orders passed by the Trial Court to the counsel for the petitioners by 07.01.2022, to enable him to file an Appeal.

jv

04.01.2022

Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking Order

Note: Issue order copy on 07.01.2022

To

1. The Principal Subordinate Judge,
Dharmapuri.
2. The Section Officer,
V.R.Section,
High Court of Madras.



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R.SUBRAMANIAN, J.

jv

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