



WEB COPY



C.R.P(NPD)No.883 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(NPD)No.883 of 2022
and C.M.P.No.4477 of 2022

Ayyandhurai,
S/o.late.Ariyaputhiragounder

... Petitioner

Vs.

Sivasankar
S/o.A.Sivaraman,

.... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Judgement and Decree dated 18.11.2021 made in R.E.A.No.01 of 2021 in R.E.P.No.464 of 2007 on the file of IV Additional District Munsif Court, Salem.

For Petitioner : M/s.K.Sathish Kumar

ORDER

Pending second appeal in S.A.No.864 of 2013, the decree holder in a suit for declaration of title and recovery of possession of the suit property in O.S.No.1658 of 2004 had laid R.E.P.No.464 of 2007, that he sold the



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property to a third party subsequently and then passed away. The third party purchaser now wants to prosecute the execution proceedings and has taken out R.E.A.No.01 of 2021 for substituting himself in the place of the decree holder in R.E.P.No.464 of 2007. This is allowed by the Execution Court and this is challenged by the judgment debtor.

2.Learned counsel for the revision petitioner submitted that *lis pendens* transfer and the second appeal is pending and it is not appropriate to allow the purchaser to substitute the decree later since the decree has not itself attained finality.

3.*Lis pendens* transfer *per se* is not illegal but its consequences will be subject to the outcome of the litigation. Therefore, there is absolutely nothing wrong in a *pendente lite* purchaser of the decree holder continues to prosecute the Execution Petition.

4.This Court therefore does not find any illegality, irregularity in the order of the Execution Court for it interfere. If at all, the Judgement Debtor has any



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apprehensions in the execution proceedings might continue then he may have to workout his remedy in the pending second appeal.

5.This Civil Revision Petition stands dismissed subject to what is referred to the above at the admission stage itself. Consequently, the connected C.M.P.No.4477 of 2022 is also dismissed. No costs.

24.03.2022

Index : Yes/No
Internet : Yes / No
Speaking /Non Speaking

dk / kas

To

The IV Additional District Munsif Court
Salem.



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N.SESHASAYEE, J.,

kas/dk

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