



C.R.P(NPD).No.935 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(NPD).No.935 of 2022
and C.M.P.No.4760 of 2022

S.Padmavathy

... Petitioner

Vs

J.Ramadurai

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to strike off the E.P.No.18 of 2020 in O.S.No.145 of 2008 which is pending before the District Munsif cum Judicial Magistrate Court, Madhavaram and allow the present Civil Revision Petition.

For Petitioner : Mr.Nataraj
for Ms.R.Pavithra

For Respondent : Mr.Kamalahkannan



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ORDER

This Civil Revision Petition has been preferred challenging to strike off the E.P.No.18 of 2020 filed to execute the Decree granted in O.S.No.145 of 2008, which is pending before the District Munsif cum Judicial Magistrate Court, Madhavaram.

2. The revision petitioner is the Judgment Debtor/defendant in the suit filed by the respondent/Decree holder/plaintiff in O.S.No.145 of 2008. After the suit was decreed, the execution proceedings were initiated in E.P.No.18 of 2020. Now, the petitioner/Judgment Debtor has filed this petition to strike off the proceedings in E.P.No.18 of 2020.

3. Learned counsel for the petitioner submitted that the property, which is involved in the suit is different from the property of the petitioner and the



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summons in the suit has not been served upon him effectively and the Decree has been obtained by fraud.

4. As of now, the Decree, which has been passed in O.S.No.145 of 2008 is effective and valid. No appeal is pending against the order passed in O.S.No.145 of 2008 and no stay also granted to stay the operation of the Decree passed in O.S.No.145 of 2008. Neither a suit has been filed to declare the Decree passed in O.S.No.145 of 2008 as null and void due to fraud of collusion.

5. In such circumstances, nothing would tie the hands of the executing Court from continuing the proceedings filed in E.P.No.18 of 2020 in O.S.No.145 of 2008. I think this Civil Revision Petition is not at all maintainable.

6. In the result, this Civil Revision Petition is dismissed and this Court is not inclined to strike off the E.P.No.18 of 2020 in O.S.No.145 of 2008, which is pending before the District Munsif cum Judicial Magistrate Court, Madhavaram



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R.N.MANJULA, J.

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and the learned trial Judge can continue with the execution proceedings in E.P.No.18 of 2020. Consequently, the connected miscellaneous petition is closed.

No costs.

28.06.2022

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Index : Yes

Internet : Yes

Speaking Order

To

1. The District Munsif cum Judicial Magistrate Court,
Madhavaram.

2. The Section Officer,
VR Section, Madras High Court,
Chennai.

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