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C.R.P.No.2075 and 2076 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P.Nos.2075 and 2076 of 2016
and CMP No.10830 of 2016

CRP.No.2075 of 2016

S.Kumar
S/o.Saminathan
No.44/3, Kumaran Koil Street
Cuddalore O.T,Cuddalore Taluk
Cuddalore District.

..Revision Petitioner/
1st Respondent/
1st Respondent

.Vs.

Bava Sahib Marakkayar (died)
S/o.Fakruddin Maravair

1.Khaja Moideen
2.S.Masilamani
3.Balakrishnan
4.Ramalingam

.. Respondents/
Decree Holders-
Judgment Debtors/
Petitioners/
Respondents 2 to 4

Prayer in CRP.No.2075 of 2016:- Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair order and decretal order dated 29.2.2016 passed in E.P.No.6 of 2004 in R.C.O.P.7 of 1997 on the file of the Principal District Munsif Court, Cuddalore.



C.R.P.No.2075 and 2076 of 2015

For Petitioner : Mr.R.Gururaj

For Respondents : No Appearance for R1
R2 to R4 – given up vide court order dt.02.02.2022

CRP.No.2076 of 2016

S.Kumar
S/o.Saminathan
No.44/3, Kumaran Koil Street
Cuddalore O.T
Cuddalore Taluk
Cuddalore District.

..Revision Petitioner/
Petitioner/
Respondent

.Vs.

Khaja Moideen

..Respondent/
Respondent/
Respondent

Prayer in CRP.No.2076 of 2016:- Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair order and decretal order dated 01.2.2016 passed in E.A.No.180 of 2014 in E.P.6 of 2004 in R.C.O.P.7 of 1997 on the file of the Principal District Munsif Court, Cuddalore.

For Petitioner : Mr.R.Gururaj

For Respondents : No Appearance



COMMON ORDER

The issue involved in both these Civil Revision Petitions are common and hence, they are taken up together and disposed of through this common order.

2. C.R.P.No.2075 of 2016, has been filed against the fair and final order passed by the Court below in E.P.No.6 of 2004 in RCOP No.7/1997, dated 29.02.2016, directing delivery of possession of the property.

3. C.R.P.No.2076 of 2016, has been filed against the fair and final order passed by the Court below in E.A.No.180 of 2014 in EP.No.6 of 2004 in RCOP No.7/1997, dated 01.02.2016, dismissing the petition filed to hold that the decree is inexecutable.

4. Heard Mr.R.Gururaj, learned counsel for the petitioner. The 1st respondent has been served notice and his name has been printed in the cause list. However, there is no appearance on behalf of the respondent either in person or through counsel.

5. The respondents are the decree holders. They filed a petition for eviction before the rent controller and eviction was ordered and it was confirmed till this Court



in CRP(NPD).No.12 of 2005. Thereafter, Execution Petition was filed for delivery of possession. In the said Execution Petition, the judgment debtor filed E.A.No.180 of 2014, on the ground that one of the owner of the property was not added as a party in the RCOP proceedings and that there was an oral agreement for the sale of the property in favour of the judgment debtor and there was also a suit as between the co-owners for the relief of partition. In view of the same, the judgment debtor sought for the dismissal of the Execution Petition on the ground that the eviction order is inexecutable. That apart, they also filed a petition challenging the order passed by the Court below ordering for delivery of possession.

6. In the considered view of this Court, the judgment debtor, who had suffered eviction and which was also confirmed till this Court, is holding on to the property by raising unsustainable grounds and is preventing the decree holder from getting the fruits of the decree. It is now too well settled that even a co-owner can initiate proceedings for eviction and it is not necessary that all the owners must join together in order to maintain an Eviction Petition. That apart, the property has been properly identified and there is no confusion regarding the same and the judgment debtor is only trying to create a confusion which has been rightly rejected by the Court below.



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7. This Court does not find any illegality or infirmity in the order passed by the Court below and it does not require the interference of this Court. There are absolutely no merits in these Civil Revision Petitions and accordingly, both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

05.12.2022

KP
Internet
Index:Yes/No
Speaking Order: Yes/No

To

Principal District Munsif Court,
Cuddalore.



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C.R.P.No.2075 and 2076 of 2015

N.ANAND VENKATESH. J.,

KP

C.R.P.Nos.2075 and 2076 of 2016

05.12.2022