



C.R.P(NPD) No.1886 of 2022 and

C.M.P.No.9619 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HONOURABLE MS. JUSTICE **R.N.MANJULA**

C.R.P (NPD).No.1886 of 2022 and

C.M.P.No.9619 of 2022

1.Natesa Mandhiri

2.Krishnamoorthy

3.Karthikeyan

4.Mahalakshmi

... Petitioners

Vs.

Andal Ammal

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of C.P.C, to set aside the fair and decreetal order dated 26.04.2022, passed in E.A.No.1 of 2021 in E.P.No.17 of 2019 in O.S.No.22 of 1998, by the District Munsif-cum- Judicial Magistrate, Arcot.

For Petitioners : Mr.P.G.Thiyagu



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ORDER

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2. Heard the learned counsel for the petitioners.

3. The civil revision petitioners are the judgment debtors and they filed a claim petition in E.A.No.1 of 2021 in E.P.No.17 of 2019 and the same was dismissed. Aggrieved over that, this civil revision petition has been preferred by the revision petitioners.

4. The learned counsel for the revision petitioners submitted that the suit has been filed by the respondent / plaintiff for the relief of declaration and permanent injunction and in the guise of the decree obtained in the said suit, the decree holder / plaintiff is attempting to recover the suit property from the possession of the defendants. According to the stand taken in the petition filed under Section 47 of C.P.C. by the civil revision petitioners, the decree is



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inexecutable.

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5. On perusal of the affidavit of the civil revision petitioners filed in the petition under Section 47 of C.P.C., it is difficult to understand what is the relief sought for. The execution petition has been filed by the plaintiff / Decree holder to issue an order of arrest and remove the obstructers who obstructed the plaintiff from enjoying the suit property in terms of the decree obtained by her. By way of preferring a petition quoting Section 47, but without any specific prayer, the petitioners cannot be allowed to make out a new case and seek reliefs contrary to the very decree itself. The application filed by the petitioners, on the face of it appears to be a time gaining tactics. The execution petition has not been filed for recovery of possession. A different interpretation for the decree cannot be given by the petitioners under the pretext of filing a petition under Section 47 of C.P.C. The learned Trial Judge has rightly dealt the petition and disallowed the same. In my opinion, it does not suffer from any factual or legal infirmity and I find no grounds for interference in the order passed by the learned Trial Judge.

R.N.MANJULA, J.



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6. Accordingly, this Civil Revision Petition stands dismissed and the order passed by the learned District Munsif-cum-Judicial Magistrate, Arcot, in E.A.No.1 of 2021 in E.P.No.17 of 2019 in O.S.No.22 of 1998, dated 26.04.2022, is confirmed. No costs. Consequently, connected miscellaneous petition is also closed.

22.06.2022

Index : Yes/No

Speaking or Non-speaking order

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To

The District Munsif-cum-Judicial Magistrate,
Arcot.

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