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C.R.P.(NPD) No.1840/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD)No. 1840 of 2022

and

CMP.No.9428 of 2022

Ruby

...

Petitioner

Vs.

1.Andreves

2.Kaasilingam alias Mariyadass

3.Devadoss

4.Kala.

5.Ramesh

6.K.Suresh

...

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 01.11.2021 made in E.P.NO.68/2015 in OS.No.226/1996 on the file of the District Munsif Court, Aranui, Thiruvannamalai District.

For Petitioner : Mr.T.P.Prabakaran



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ORDER

This Civil Revision Petition has been filed challenging the order dated 01.11.2021 made in E.P.NO.68/2015 in OS.No.226/1996 on the file of the learned District Munsif, Aranui, Thiruvannamalai District.

2. The revision petitioner is the 4th judgement debtor and defendant in the suit.

3. The 1st respondent /plaintiff has filed a suit for declaration and recovery of possession in OS.No.228/1996 and the same was decreed. The first and second Appeals filed challenging the above decree were also dismissed. The respondent who is the judgement holder has filed the execution proceedings in EP.No.68/2015, in which the Executing Court has ordered delivery. Aggrieved over that, this civil revision petition has been filed.

4. The learned counsel for the petitioner submitted that the D-Memo was ordered in the name of revision petitioner who is the 4th defendant but the trial court and the appellate courts did not consider the documents submitted by the revision petitioner and she continued to be in possession of the property and hence the delivery order should be set aside. His further



submission is that the Government should be added as a party in the execution proceedings.

5. The suit has been filed as early as in the year 1996 and it was pending for trial nearly 6 years. During that time the revision petitioner who is the 4th defendant in the suit has not raised any objection that the Government should also be added as a party. Neither has she filed any counter in the suit against the plaintiff by impleading the government as a party added in the suit proceedings. Having allowed, the decree to attain finality now at a stage when the delivery was ordered in execution of the decree dated 22.04.2022, the civil revision petitioner makes a contention before this court that the suit has not been dealt in a proper manner.

6. It is further contented that the second appellant died when the second appeal was pending and his legal heirs ought to have been added as parties and without impleading them as parties no order can be passed in the execution proceedings.

7. All these matters ought to have been raised when the Appeal was



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pending and not before the Execution Court. Since the decree is valid and no order of stay is pending to stop the operation of the decree, the Execution Court is right in ordering the *delivery*. Hence I find no factual or legal infirmity for interference.

Thus, the present Civil revision Petition stands **dismissed**. The order of the learned District Munsif, Aranui, Thiruvannamalai District passed in E.P.No.68/2015 in OS.No.226/1996, dated 01.11.2021, is confirmed. No costs. Consequently connected miscellaneous petition is also closed.

30.06.2022

Index : Yes/No
Speaking Order : Yes / No
jrs



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R.N.MANJULA, J.,

jrs

- To
1. The District Munsif Court,
Aranui, Thiruvannamalai.
 2. The Section Officer,
VR Section, Madras High Court,
Chennai.

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