



C.R.P.No.3325 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3325 of 2022
and
C.M.P.No.17634 of 2022

K.Renuka

... Petitioner

VS

1.K.Anuradha

2.K.Gopalakrishnan

3.K.Srinivasan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for the records of the Lower Court and set aside the fair and decretal order dated 01.09.2022 passed in E.P.No.2513 of 2019 in O.S.No.1271 of 2013 by the IX Assistant Judge, City Civil Court at Chennai and allow this Civil Revision Petition.

For Petitioner : Mr.J.Kannan

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dated 01.09.2022 in E.P.No.2513 of 2019 directing the petitioner



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herein to vacate and handover vacant possession of the portion of the suit property in her possession.

2. The respondents herein obtained a final decree for partition in O.S.No.1271 of 2013 and the same has been confirmed by the judgment of this Court in A.S.No.560 of 2019, dated 27.02.2020. As per the terms of final decree, the existing dilapidated superstructure stands in the suit property has to be demolished and the vacant site of the suit property has to be divided into four portion viz., A, B, C and D. The 1st respondent/plaintiff was allotted with portion 'A' as per the Advocate Commissioner's report.

3. As far as the share of the petitioner herein and other judgment debtors are concerned, the final decree directs they should be allotted with portions B to D. The 1st respondent herein filed an execution petition seeking delivery of the vacant possession of the schedule mentioned property from judgment debtors.



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4. The Court below in the impugned order recorded that other judgment debtors are not in the possession of the suit property and the petitioner alone is occupying a portion of the suit property and consequently, directed the petitioner to handover the vacant possession.

5. In the counter to the execution petition, the petitioner herein raised an apprehension that the 1st respondent/decree holder is in possession of the portion of the first floor in the existing building and after getting delivery from petitioner, she may refuse to vacate and consequently, the execution of final decree by demolishing the existing structure and allotment of vacant portion of the land as per the Advocate Commissioner's report would get stalled.

6. The apprehension expressed by the revision petitioner is not well founded. After taking delivery of possession of the portion of the property with the petitioner, the Court below should proceed further and pass appropriate orders for demolition of existing structure and allotment of portion 'A' to the 1st respondent/plaintiff. It is always open to the revision petitioner to file appropriate application before the Executing Court for allotment of one portion



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out of portions B to D as suggested by Advocate Commissioner. If any such application is filed by the revision petitioner, the same shall be disposed within a period of four months from the date of receipt of copy of this order.

7. At this movement, the learned counsel for the petitioner submitted that he had already filed a petition for demolition of entire existing superstructure. If any such application is filed by the petitioner, the executing Court is directed to dispose of the same in accordance with law, as expeditiously as possible, within the time frame mentioned above.

8. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
dm

To

The IX Assistant Judge,

4/6



City Civil Court at Chennai.

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S.SOUNTHAR, J.

dm

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