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C.R.P.No.3923 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3923 of 2022
and C.M.P.No.20508 of 2022

C.Natarajan

...Petitioner

Versus

C.Balaraman

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, pleaded to set aside the fair and decreetal order of the Execution Petition in E.P.No.22 of 2021 in O.S.No.84 of 2011 on the file of Learned District Munsif Court, Sriperumbudur dated 22.09.2022.

For Petitioner : Mr.C.Samivel

O R D E R

The Civil Revision Petition is filed challenging the order passed by the Court below ordering delivery in E.P.No.22 of 2021.

2. The respondent herein obtained a decree for recovery of possession in O.S.No.84 of 2011 dated 25.01.2016, challenging the said decree the petitioner



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herein filed an appeal in A.S.No.101 of 2016 on the file of the Subordinate Court, Kancheepuram. The appeal was dismissed for default on 13.08.2019. The petitioner herein filed an application to restore the appeal in I.A.No.1 of 2021 and the same is said to be pending. In the meantime, since there is no interim stay of further proceedings from the Appellate Court, the Executing Court allowed the E.P.No.22 of 2021 on 22.09.2022. Aggrieved by the same, the petitioner is before this Court.

3. Admittedly, there is no stay by the Court. Even, the first appeal in A.S.No.101 of 2016 filed by the petitioner challenging the original decree was dismissed for default on 13.08.2019 itself. Under these circumstance, there is no impediment for the Executing Court to proceed with the E.P. in the absence of any interim order by the Appellate Court. Therefore, the order of delivery passed by the Executing Court cannot be interfered with by this Court. If at all, it is for the petitioner to move the Appellate Court for getting appropriate interim orders, if so advised, this Court does not find any irregularity or illegality in the order passed by the Executing Court.



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4. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order / Non-Speaking Order



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S.SOUNTHAR, J.

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To

The Learned District Munsif Court,
Sriperumbudur.

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