



WEB COPY



S.A.No.606 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Second Appeal No.606 of 2017

and

Civil Miscellaneous Petition No.15101 of 2017

Sivanandha Valli (Died)

1.Rajalakshmi

2.Velmani

3.Elavarasi

... Appellants

Versus

Narayanasamy

...Respondent

Prayer: The Second Appeal filed under Section 100 of the Code of Civil Procedure, against the Judgment and Decree made in A.S.No.143 of 2007, dated 30.01.2009, on the file of the Principal Subordinate Court, Vridhachalam and confirming the Judgment and Decree in O.S.No.725 of 2004, dated 20.09.2007 on the file of the II Additional District Munsif, Vridhachalam.

For Appellants : Ms.M.Meena Rukmani
For Mrs.AL.Gandhimathi

For Respondent : Mr.T.Sezhian
For Mrs.R.Meenal



JUDGMENT

The learned counsel for the respondent had filed a Memo, which is as follows:

“MEMO FILED ON BEHALF OF THE RESPONDENT

It is submitted as follows:-

The appellants filed O.S.No.725 of 2004 before the II Additional District Munif, Vridhachalam for declaration, injunction and in the alternative for recovery of possession if respondent entered into the suit property pending proceedings. The respondent filed written statement and counter claim for mandatory injunction to remove the house constructed by them. The trial court dismissed the suit and allowed the counter claim by the respondent. The appellants filed A.S.No.143 of 2007 before the Principal Sub Court, Vridhachalam which was also dismissed.

The appellants preferred S.A.sr.No.57801 of 2009 before this Hon'ble Court with an application for condoning the delay of 44 days in filing the above appeal. The delay was condoned and appeal was numbered as S.A.No.606 of 2017. Pursuant to the order of decree in counter claim the respondent filed



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Execution Petition in E.P.No.185 of 2009 before the District Munsif, Vridhachalam. After hearing both sides the learned Judge was pleased to issue warrant and the respondent herein permitted to remove the house and fencing available in the property through Court. The warrant has been executed and possession was handed over by the Court Bailiff to the respondent on 18.8.2017. The report has been recorded and E.P. was terminated. Since the appellants participated in the Execution proceedings and possession was taken by the respondent in the presence of the appellants nothing survives in the appeal. Therefore the above appeal may be dismissed.

It is therefore prayed that this Hon'ble Court may be pleased to record the memo and thus render justice.

Dated at Madras this the 24th May of January 2022

*Sd/-.....
Counsel for Respondent”*

2. Along with Memo, a Report of the Bailiff and the notes papers to the Execution Petition were also filed. It is seen that on 19.08.2017, the



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Principal District Munsif, Vridhachalam had made the following endorsement.

“Property delivered, warrant returned with JB endorsement, delivery recorded, this EP is terminated.”

3. In view of the above, nothing further survives for consideration in the Second Appeal and the same is liable to be dismissed.

4. Accordingly, the Second Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

12.12.2022

ssi

Index:Yes/No

Speaking Order : Yes/No

To

- 1.The Principal Subordinate Judge,
Vridhachalam.
- 2.The II Additional District Munsif,
Vridhachalam.
- 3.The Section Officer,
VR Section, High Court of Madras.



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