



WEB COPY



C.R.P.Nos.3477 & 3495 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	01.09.2022
PRONOUNCED ON	:	08.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.Nos.3477 & 3495 of 2019
and C.M.P.Nos.22859 & 22935 of 2019

1) Parasi Bai

2) Vinodkumar

3) Anju

.. Petitioners in both cases

Versus

Pravinraj Jain

.. Respondent in both cases

COMMON PRAYER: Civil Revisions Petition filed under Article 227 of the Constitution of India against the fair and decretal orders made in E.P.Nos.104 & 112 of 2014 in O.S.Nos.37 & 87 of 2008 on the file of the II Additional Sub-Ordinate Judge, Coimbatore dated 22.07.2019.

In both cases:

For Petitioners : Mr.J.R.Prabhakaran

For Respondent : Mr.R.Nandhakumar



C.R.P.Nos.3477 & 3495 of 2019

WEB COPY

COMMON ORDER

Civil Revision Petitions in C.R.P.Nos.3477 & 3495 of 2019 are filed against the fair and decretal orders made in E.P.Nos.104 & 112 of 2014 in O.S.Nos.37 & 87 of 2008 on the file of the II Additional Sub-Ordinate Judge, Coimbatore dated 22.07.2019. Since the issue involved in both the Civil Revision Petitions are one and the same, they are disposed of by this common order.

2. Brief facts of the case, that are necessary for the disposal of the civil revision petitions, are as follows:-

2.1. Suit in O.S.No.37 of 2008 was filed by M/s.P.Parasmal sons, rep. by its Proprietor Mr.Prakashmal @ Prakash Chand for recovery of Rs.1,64,930 directing the defendants/petitioners herein to pay the said sum to the plaintiff with future interest at 18% from the date of suit to the date of realization and for costs. Similarly, the suit in O.S.No.87 of 2008 was filed by the respondent herein against the petitioners herein for recovery of Rs.1,64,930 directing the defendants/petitioners herein to pay the said sum



C.R.P.Nos.3477 & 3495 of 2019

to the plaintiff with future interest at 18% from the date of suit to the date of realization and for costs. Both the suits were decreed in favour of the plaintiffs vide judgment dated 26.07.2011. Aggrieved against the same, the defendants filed an appeal before the Court of First Additional District Judge, Coimbatore in A.S.Nos.9 & 10 of 2012.

2.2. The learned Judge, after hearing the submissions made on both sides, dismissed the appeal vide judgment dated 28.09.2012. Later, the respondent herein, filed execution petitions under Order XXI Rule 64 and 66 of the Civil Procedure Code in E.P.Nos.104 and 112 of 2014 in O.S.Nos.37 & 87 of 2008, to attach and to bring petitioners' property for sale. The learned II Additional Sub-Ordinate Judge, Coimbatore allowed the petitions. Aggrieved against the same, the petitioners have filed the present Civil Revision Petitions.

3. According to the learned counsel for the petitioners/defendants, one GanpathrajGadia had borrowed money from the respondent and the said GanpathrajGadia died on 28.03.2005 leaving behind the



C.R.P.Nos.3477 & 3495 of 2019

petitioners/defendants as his legal heirs. Hence, the respondent/plaintiff filed a suit in O.S.No.37/2008 and 87/2008 against the petitioners/defendants and the suit was decreed on 26.07.2011 in favour of the respondent/plaintiff and the petitioners/defendants were directed to pay the loan amount with interest. Aggrieved by the same, the petitioners/judgment debtor filed an appeal in A.S.No.9/2012 and 10/2012 before the Additional District Court and the same was dismissed on 28.09.2012. Then, the respondent herein/decreed holder filed the Execution petition for attachment and sale of the suit property.

4. According to the learned counsel for the petitioners/defendants, the suit property was a self acquired property of the first petitioner/1st defendant, who purchased the same long back on 29.04.1988 along with one B. Vimala Devi @ Vimala Bai. Hence, the suit property is an undivided property and the first defendant was entitled to get half share in the suit property. But the deceased GanpathrajGadia did not leave any estate to be succeeded by the petitioners/defendants. According to the revision petitioners/defendants, they have not inherited any property or



C.R.P.Nos.3477 & 3495 of 2019

estate from the deceased GanpathrajGadia. So the mode of execution is not sustainable.

5. Resisting the submissions made by the learned counsel for the petitioners, the learned counsel for the respondent/plaintiff would submit that the learned Judge while allowing the execution petitions has placed reliance on the well settled proposition of law that an executing Court cannot go behind the decree and therefore, the same needs no interference of this Court. Therefore, prayed for dismissing the present revision.

6. I have heard the submissions advanced by the learned counsel for the revision petitioners as well as the respondent and also gone through the documents placed before this Court.

7. Admittedly, the suit is decreed in favour of the respondent/plaintiff and the appeal filed by the petitioners/Judgment Debtors is also dismissed and therefore, the E.P. Court cannot go beyond the decree passed by the Court below and therefore, the orders made in E.P.Nos.104 & 112 of



C.R.P.Nos.3477 & 3495 of 2019

2014 in O.S.Nos.37 & 87 of 2008 on the file of the II Additional Sub-

Ordinate Judge, Coimbatore dated 22.07.2019 needs no interference.

Accordingly, these Civil Revision Petitions are Dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

08.11.2022

Index : Yes / No

Internet : Yes

sts

To:

- 1) The II Additional Sub-Ordinate Judge, Coimbatore
- 2) The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



C.R.P.Nos.3477 & 3495 of 2019

J.NISHA BANU, J.,

sts

Common Order made in
C.R.P.Nos.3477 & 3495 of 2019

Dated:
08.11.2022