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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM:

THE HON'BLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3771 of 2022

and

C.M.P.No.19882 of 2022

Chennappa

... Petitioner

Versus

Munisamappa (died)

Gowramma(died)

1.Ammaiah@ Rajamma

2.Muniyamma @ Suseela

3.M.Appoji

4.M.Ragu

M.Ravi (died)

5.M.Murugan

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., to set aside the order of returning the petition dated 10.10.2022 in R.E.A.Sr.No.10265 of 2022 in R.E.P.No.95 of 2015 on the file of Principal Subordinate Court, Hosur.

For Petitioner : Mr.C.Prabakaran

ORDER



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This Civil Revision Petition is filed by the revision petitioner aggrieved by the order returning the execution petition dated 10.10.2022 filed by him in REA.Sr.No.10265 of 2022 in REP.No.95 of 2015 on the file of the Sub-Court, Hosur.

2. The respondents herein are the petitioners in REP.No.95 of 2015 for delivery of property in pursuance of the decree passed in O.S.No.344 of 1996 dated 02.08.2010. The petitioner herein filed an instant application in REA.Sr.No.10265 of 2022 seeking to dismiss the execution petition on the ground that it was filed in the name of the dead person namely the 7th petitioner in E.P. The petitioners also raised a point that the execution petition was signed by only one of the petitioners and other petitioners have not signed the execution petition. The execution application filed by the petitioners was returned by the execution court by order dated 10.10.2022.

3. The perusal of the order passed by the execution court shows that it was a non-speaking order. The order impugned in this revision reads as follows:-

“Heard the petitioner. This petition is not maintainable. Hence returned. “



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4. The court below has not considered the points raised by the revision petitioners in execution application in support of the prayer to dismiss the execution petition. The court below has not given any reason for returning the execution application on the ground that it was not maintainable. Therefore, the impugned order dated 10.10.2022 is set aside and the matter is remitted back to the file of the Sub-Court, Hosur, to consider and pass appropriate order after giving adequate opportunity to the revision petitioner.

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

21.11.2022

Internet: Yes
Index: Yes/No
gv

Note: a) The Registry is directed to return the original execution application in REASR.No.10265 of 2022 to the learned counsel for the petitioners.

b) Issue order copy on or before 24.11.2022



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S.SOUNTHAR, J.

gv

To

The Principal Subordinate Court,
Hosur.

C.R.P.No.3771 of 2022
and
C.M.P.No.19882 of 2022

21.11.2022