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C.R.P.No.3130 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.No.3130 of 2017
and C.M.P.No.14648 of 2017

K.Samraj

.. Petitioner

Vs.

1. N.R.Jagannathan

2. S.Palani

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 09.08.2017 in unnumbered E.A.Sr.No.5203 of 2017 in R.E.P.No.110 of 2015 in O.S.No.269 of 2013 on the file of Additional District Munsif Court, Tirupattur, Vellore District and direct the Court below to take the application on file and dispose of the same.

For Petitioner : Mr.R.Subramanian

For R1 and R2 : Mr.E.C.Ramesh

ORDER

This Civil Revision Petition has been filed as against the order dated 09.08.2017 in unnumbered E.A.Sr.No.5203 of 2017 in R.E.P.No.110 of 2015 in O.S.No.269 of 2013, on the file of Additional District Munsif



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Court, Tirupattur, Vellore District, thereby returned the petition filed by the petitioner under Order 21 rule 97 of CPC r/w Section 151 of CPC.

2. Heard both sides.

3. A perusal of records revealed that the petitioner is the third party.

The first respondent filed a suit in O.S.No.269 of 2013 for recovery of possession. The said suit was allowed and in order to execute the same, the first respondent herein filed an execution petition in R.E.P.No.110 of 2015 in O.S.No.269 of 2013. The said execution petition was ordered and the delivery of the subject property was also effected and the same was recorded on 22.04.2017. Thereafter, on 26.04.2017, the execution petition itself was terminated by the Court below.

4. At that juncture, the petitioner who is being a third party filed an application under Order 21 rule 97 of CPC r/w Section 151 of CPC to obstruct taking possession of the subject property. The said application was returned by the Court below for the reason that already the execution



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petition was terminated and as such the petition is not maintainable.

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5. Therefore, the Court below rightly rejected the application as not maintainable and this Court finds no infirmity or illegality in the order passed by the Court below.

6. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

09.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

mn

G.K.ILANTHIRAIYAN,J.

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C.R.P.No.3130 of 2017

To

The Additional District Munsif Court, Tirupattur, Vellore District.

C.R.P.No.3130 of 2017
and C.M.P.No.14648 of 2017

09.12.2022