



C.R.P.No.4159 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4159 of 2022

and

C.M.P.No.21745 of 2022

V.Vijayakumar

... Petitioner/Judgment Debtor/Defendant

Vs.

Solai

... Respondent/Decree Holder/Plaintiff

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for records and set aside the order dated 17.11.2022 made in E.P.No.77 of 2018 in O.S.No.28 of 2012 I-Additional Sub-Court, Cuddalore.

For Petitioner : Mr.R.MD.Nasrullah

For Respondent : Mr.T.S.Baskaran

ORDER



C.R.P.No.4159 of 2022

WEB COPY

The Civil Revision Petition has been filed to set aside the order dated 17.11.2022, passed in E.P.No.77 of 2018, in O.S.No.28 of 2012. The defendant/judgement debtor is the revision petitioner before this Court and the respondent herein filed a suit for recovery of money.

2. The revision petitioner had not chosen to contest the suit filed by the respondent in O.S. No. 28 of 2012. Further, he had not objected to the Execution Petition filed by the respondent in E.P. No.100 of 2013. Subsequently, for bringing the petition schedule property for Court Auction, the respondent filed an Execution Petition for delivery of possession of schedule property as per the sale certificate issued by the Court concerned in E.P. No.100 of 2013. Though the revision petitioner filed a counter in the executive petition, the issues were considered and delivery was ordered by the learned I Additional Sub-Court, Cuddalore.

3. The Trial Court considered the issues with reference to the petition and the counter filed by the respective parties to the executive



C.R.P.No.4159 of 2022

proceedings and allowed the Execution Petition ordering to effect delivery of property in favour of the respondent by 01.12.2022. At this point of time, the learned counsel for the revision petitioner states that the petitioner is ready and willing to settle the entire amount.

4. However, the learned counsel for the respondent brought to the notice of this Court that delivery has already been granted and the respondent had taken over the possession of the property and thus, nothing survives. At this stage, this Court cannot permit the respondent to pay the money and get back the property. Mediation after delivery of possession, pursuant to the orders passed in the E.P. proceedings are not desirable. As far as the order impugned in the executive proceeding concerned, the delivery of property granted in favour of the respondent is in consonance with the procedures and there is no infirmity.

5. The revision petitioner had chosen not to contest the suit and the subsequent proceedings vigilantly and now after a lapse of about 10 years, the revision petitioner cannot say that he will settle the dues to the



C.R.P.No.4159 of 2022

respondent. Such oral pleadings now placed before this Court deserves no merit consideration.

6. Thus, there is no infirmity in respect of the order passed in the EP proceedings, and accordingly, the civil revision petition stands **dismissed**. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

sha

21.12.2022

Index:Yes
Internet:Yes
Speaking Order

To

1. I-Additional Sub-Court, Cuddalore.



WEB COPY



C.R.P.No.4159 of 2022

S.M.SUBRAMANIAM.J.,

sha

C.R.P.No.4159 of 2022

21.12.2022