



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction**

Wednesday, the Twentieth day of April Two Thousand and Twenty Two

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PRESENT

The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMP(MD) . No.3802 of 2021

in

CRP(MD)No.2272 of 2012

1.Mangalaveni

2.G.Giridaran

3.G.Narmatha

... Petitioners/Petitioners

Vs

1 R.M.Natarajan

2 R.M.Anand

... Respondents/Respondents

Prayer :- CMP(MD) . No.3802 of 2021

Civil Miscellaneous Petition filed under Order 9 Rule 7 of C.P.C. to set aside the order dated 02.11.2020 in CRP(MD)No.2272 of 2012 and restore the same and thus render justice.

Prayer:- CRP(MD)No.2272 of 2012

Civil Revision Petition filed under section 115 of C.P.C. Against the order dated 26.09.2012 in E.A.No.35 of 2007 in E.P.No.45 of 2004 in O.S.No.283 of 2002 on the file of the Subordinate Judge, Pudukottai.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.D.R.Murugesan Advocate for First Respondent and Mr.P.Thirumahilmaran Advocate for the Second Respondent and Appellants not appeared either in person or by an Advocate this Court made the following order:

The defendants are the revision petitioners.

2. The plaintiff filed a suit for specific performance. The suit was decreed as prayed for on 05.08.2003. The decree holder filed E.P.No.45 of 2004 to execute the decree. The Court has



executed a sale deed in favour of the decree holder on 21.11.2005. Thereafter, the decree holder has filed E.A.No.35 of 2007 to take delivery of the suit schedule properties. The defendant/judgment-debtor filed a counter and contested the said application. The Executing Court has rejected the contentions of the defendant/judgment-debtor and allowed the application for delivery of the property in favour of the decree holder. The said order is under challenge in the revision petition.

3. The learned counsel for the petitioners has contended that the Court has no jurisdiction to execute the sale deed, since it is beyond the pecuniary jurisdiction of the Court. A perusal of the decree of the trial Court will clearly indicate that the present revision petitioner has suffered a decree in specific performance suit and the Court has executed a sale deed in favour of the decree holder. The Executing Court has proceeded to order delivery of the property in accordance with the decree. The present revision petition has been filed on the only ground that the trial Court has no pecuniary jurisdiction to execute such a sale deed. As per Section 21(2) of the Code of Civil Procedure, an objection relating to the competence of a Court with reference to the pecuniary limits of its jurisdiction cannot be allowed at the appellate stage or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity.

4. In the present case, the defendant has not raised any objection in his written statement with regard to the pecuniary jurisdiction of the Court. Hence, the same cannot be raised in the execution stage. This revision petition was already dismissed on 02.11.2020. The present application has been filed to set aside the said order and re-hear the same on the ground that the order of delivery has not been effected. Since I do not find any merits in the said application as well as in the main revision petition, this Civil Miscellaneous Petition is dismissed. The order of delivery has been passed by the Executing Court as early as on 30.10.2012. Hence, the Execution Court may expedite the proceedings with regard to the earliest delivery of the property.

5. Accordingly, this Civil Miscellaneous Petition stands dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



TO

The Subordinate Judge,
Pudukkottai

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Copy to:

1.The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai - 2 copies

+ CC to Mr.D.R..Murugesan Advocate SR.No.19938/2022

+ CC to Mr.P.Thirumahilmaran Advocate SR.No.19916/2022

ORDER DATED : 20/04/2022

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ORDER

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CMP(MD) . No.3802 of 2021

in

CRP(MD)No.2272 of 2012

Giving direction and etc.
as stated within.

RK(06/05/2022) 3P 7C