



CRP (MD) No. 2036 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

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and

CMP (MD) No. 9301 of 2022

1. D. Rajamanickam

2. D. Jeyaraj

3. D. Selvaraj

4. C. Jegatheeswaran

5. C. Ramiladevi

6. C. Usha Devi

... Petitioners

Vs

Sri. Muthiah Swamy Trustee,
represented by its Trustees

Radha (died)

Muthukrishnan (died)

1. M. Manickavasagam

2. M. Vasiki Ramanathan

3. M. Tamilarasi Swaminathan

4. M. Mahalingam

... Respondents



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PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the records in E.A.No.48 of 2022 in EP.No.13 of 2021 in OS.No.128 of 1997 on the file of the Principal District Munsif, Thirumangalam dated 08.09.2022

For Petitioner : Mr.J.Gunaseelanmuthiah
For Respondent : Mr.E.T.Rajendran

ORDER

This civil revision petition is filed as against the fair and decreetal order dated 08.09.2022 passed in E.A.No.48 of 2022 in EP.No.13 of 2021 in OS.No.128 of 1997 by the learned Principal District Munsif, Thirumangalam.

2.The petitioners are the judgment debtors and they have filed the above E.A.No.48 of 2022 in E.P.No.13 of 2021 to stay the execution proceedings, pending disposal of the suit by these judgment debtors in OS.No.150 of 2021 before the Sub Court, Sivakasi. The executing Court dismissed the application. Aggrieved over the same, the present civil revision petition is filed.



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3.The learned Counsel for the petitioner submits that the dispute is arising out of the exchange deed dated 24.08.1981. The said exchange deed has been challenged in OS.No.128 of 1997 and it was declared as null and void. By way of exchange deed dated 24.08.1981, the petitioner / defendants have exchanged their property, which is situated at Sivakasi for the property of the trust, which is situated at Thirumangalam.

4.Since the exchange deed dated 24.08.1981 has been declared as null and void, his property at Sivakasi, which was exchanged through the exchange deed dated 24.08.1981 has to be restored to him. However, there is no order to that effect. Therefore, he has been confined to file a suit before the Sub Court, Sivakasi in OS.No.124 of 2021. Since the said suit is pending, the execution proceedings in EP.No.13 of 2021 in OS.No.128 of 1997 has to be stayed.

5.The learned Counsel for the respondent submits that as against the judgment and decree passed in OS.No.128 of 1997 the petitioners have filed an appeal in AS.No.23 of 2014, which was dismissed by the Sub Court,



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Thirumangalam by judgment and decree dated 13.10.2014.

The second appeal filed in S.A.No.35 of 2015 was also dismissed by this Court by judgment dated 01.04.2021.

The suit in OS.No.124 of 2021 before the Sub Court, Sivakasi is filed only to drag on and to avoid the execution proceedings in E.P.No.13 of 2021.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The suit in OS.No.128 of 1997 was filed in the year 1997 and decree was passed in the year 2006. The appeal filed in AS.No.23 of 2014, was dismissed by the Sub Court, Thirumangalam by judgment and decree dated 13.10.2014 and the second appeal filed in SA.No.35 of 2015 was also dismissed by this Court by judgment dated 01.04.2021. Therefore, execution petition was filed in the year 2021 and it is pending. The petitioners by referring the subsequent suit filed by them in OS.No.124 of 2021 before the Sub Court, Sivakasi seeks to stay the execution proceedings in EP.No.13 of 2021. This Court is of the view that the petitioners by referring the subsequent suit filed



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by them cannot seek to stay the execution of the decree passed in the year 2014 and there is no reason to interfere with the orders passed in EA.No.48 of 2022 in EP.No.13 of 2021 in O.S.No.128 of 1997. Accordingly, this civil revision petition is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

19.10.2022

dsk

To

The Principal District Munsif,
Thirumangalam.



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B. PUGALENDHI, J.

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