



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P(MD)No.2016 of 2021

and

CMP(MD)No.10813 of 2021

1.S.Rajendran
2.R.Sathiyadevi

...Petitioners/Petitioners/Respondents/
Defendants/JD

Vs.

Sengamalai

...Respondent//Respondent/Petitioner/
Plaintiff/DH

PRAYER: Civil Revision Petition under Section 115 of Civil Procedure Code, to set aside the fair and decretal order dated 01.09.2021 passed in E.A.No.8 of 2021 in E.S.No.79 of 2019 in O.S.No.376 of 2016 on the file of learned Subordinate Judge, Melur.

For Petitioners :Mr.K.Chengiz khan

For Respondent :Mr.M.Sankar

ORDER

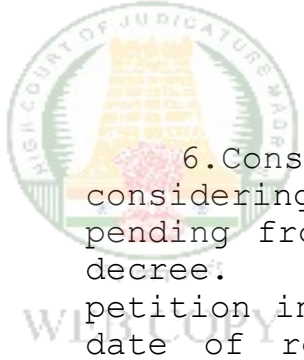
This Civil Revision Petition has been filed to set aside the fair and decretal order, dated 01.09.2021 in E.A.No.8 of 2021 in E.S.No.79 of 2019 in O.S.No.376 of 2016 passed by the learned Subordinate Judge, Melur.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The defendants/Judgment holders have filed an application in E.A.No.8 of 2021 in E.S.No.79 of 2019 in O.S.No.376 of 2016, under Order 21 Rule 26 and Section 151 of Civil Procedure Code, to stay the execution proceedings by the Judgment debtor. The said petition was dismissed on 01.09.2021. Aggrieved over the same, the revision petitioners are before this Court.

4. Heard on either side and perused the material documents available on record.

5.In the suit in O.S.No.376 of 2016, an exparte decree was passed on 21.12.2016. To set aside the said exparte-decree, a petition in I.A.No.1 of 2021 was filed on 23.07.2019. The execution proceedings are also pending for execution of sale deed. The trial Court after disposed the petition in I.A. No.1 of 2021 the Execution Court can proceed with execution petition.



6.Considering the facts and circumstances of the case, and also considering the fact that the petition in I.A.No.1 of 2021 is pending from the year 2021 the Execution Court cannot proceed with decree. Hence, the trial Court is directed to dispose the petition in I.A.No.1 of 2021, within a period of One month from the date of receipt of copy of the order. After disposal of the petition in I.A.No.1 of 2021, the Execution Court can proceed with the execution proceedings.

7.With the above observations, this Civil Revision Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Subordinate Judge,
Melur.

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21.04.2022

MGJ(31.05.2022) 2P 2C