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C.R.P.No.176



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.176 of 2023
and C.M.P.No.1373 of 2023

1.M.Subramaniam
2.M.Balamani

...Petitioners

Vs.

1.Karunaiammal
2.Parvathiammal
Marappa Gounder (dead)
3.Rathinam
4.Dhanalakshmi

... Respondents

Prayer : Civil Revision Petition filed under Section 115 of CPC, against the Fair & Decretal Order dated 05.09.2022 passed in E.A.No.17 of 2019 in E.A.No.08 of 2017 in E.P.No.14 of 2013, on the file of the District Munsiff Court, Palladam.

For Petitioners : Mr.K.Govi Ganesan

For Respondents : Mr.P.Dinesh Kumar for R1
R2 – Tapal not yet returned either served or unserved
R3 – No appearance
R4 – Not residing at present address



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ORDER

Challenging the impugned order passed in E.A.No.8 of 2017, the Decree Holder preferred this Revision.

2.Before the Executing Court, he filed an Execution Petition in E.P.No.14 of 2013 to execute the decree passed in O.S.No.454 of 1995 for recovery of possession against the defendant/Judgment Debtor. During the pendency of the suit, E.A.No.8 of 2017 was filed. The Judgment Debtor filed an application permitting his son to give evidence on behalf of her (mother). For the reason that she was aged about 70 years and due to ailments, she was not able to give evidence. The Decree Holder has not raised any objection. Hence, the Court allowed the said application holding that the son spent all these years with the mother/Judgment Debtor and was aware of the entire proceedings and hence, she was permitted to give evidence.

3.On perusal of records, it is seen that the Judgment Debtor is aged about 70 years old. Admittedly, the Judgment Debtor's son is aware of the entire proceedings and the Decree Holder has not raised any objection.

4.Considering the old age of the mother, the son, who is living with her is entitled to give evidence and the Executing Court rightly allowed the application and



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no interference is called for and therefore, the Revision filed by the petitioners is dismissed as there is no merit.

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5.However, the Judgment Debtor is directed to give cooperation to dispose of E.A.No.8 of 2017 within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

18.10.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
pam

To
The District Munsiff Court, Palladam.



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T.V.THAMILSELVI, J.

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