



WEB COPY

CRP (NPD) No.1099 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2023

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

CRP (NPD) No.1099 of 2023

and

CMP.No.7775 of 2023

S.Subramaniam

... Petitioner / 1st Judgment Debtor

Vs.

G.Kappini Raj (Deceased)

1. Smt.Vijayalakshmi
2. Smt.Veena
3. Smt.Deepa
4. Smt.Ashwini
5. Mr.Kamalakannan
6. M.Rajendran

...Respondents / Decree Holders

...Respondents/2nd & 3rd Judgment Debtors

Civil Revision Petition filed under Section 115 of the Civil Procedure Code, seeking to set aside the Fair and Decreetal Order in E.A.No.142/2014 in E.P.No.07/2013 in R.C.O.P.No.04/2005, dated 20.12.2022, passed by the learned District Munsif, Udhagamandalam.

For Petitioner : Mr.C.Prabakaran

**ORDER**

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This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the Fair and Decretal Order in E.A.No.142/2014 in E.P.No.07/2013 in R.C.O.P.No.04/2005, dated 20.12.2022, passed by the learned District Munsif, Udthagamandalam.

2. Heard Mr.C.Prabakaran , learned counsel appearing for the petitioner through video conference.

3. The petitioner who has suffered a decree in R.C.O.P.No.4/2005, passed by the learned District Munsif, Udthagamandalam, dated 29.03.2007, filed an appeal in R.C.A.No.19/2007 and by order dated 20.12.2022, the learned Sub Judge, Udthagamandalam, has dismissed the appeal.

4. The respondents/Decree holders have filed an Execution Petition in E.P.No.7/2013 seeking eviction of the petitioner from the schedule mentioned property. The petitioner/Judgment Debtor has filed E.A.No.142/2014 in E.P.No.7/2013 stating that the schedule of property in R.C.O.P.No.4/2005 is different than the property which the petitioner/Judgment Debtor is residing,



and the same was dismissed holding that the petitioner has not raised the said issue when matter was pending before the trial Court and the Appellate Court.

5. I have perused the records including the orders passed by the Trial Court.

6. According to the learned counsel for the revision petitioner, the schedule mentioned property in E.P.No.7 of 2013 in R.C.O.P.No.4 of 2005 is not the property where the petitioner/Judgment Debtor is residing, and that even if Bailiff is entrusted with warrant of execution of decree against the petitioner/Judgment Debtor in respect of the specific schedule of property as per the decree with the assistance of the Revenue Officials, still he will not be in a position to execute the warrant. In case, if the schedule of properties as per the warrant is not tallied with the property which is sought to be attached, warrant will have returned with a report that the schedule of property is not existing physically.

7. Considering the circumstances of the case and taking into consideration of the submissions made by the counsel for the petitioner, the



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Civil Revision Petition is therefore dismissed at the admission stage itself, with liberty to the petitioner to approach this Court in case, if the petitioner is aggrieved by the delivery of properties. No order as to costs. Consequently, the connected miscellaneous petition is closed.

10.04.2023

Index:Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No

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To:

1. The District Munsif,
Udhagamandalam.
2. The Section Officer,
V.R.Section, High Court, Madras.



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Dr. JUSTICE D. NAGARJUN, J.,

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