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C.R.P.No.1284 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.No.1284 of 2023

P.Ayinu

. . . Petitioner

Versus

1.Gnanasekar

2.Sundaramoorthy

. . . Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the docket order dated 28.2.2023 for numbering E.A.No.18 of 2023 in E.P.No.80 of 2020 (Old E.P.No.195/2013) in O.S.No.475 of 1998 on the file of the District Munsif Court, Vikravandi (Incharge Judicial Magistrate II).

For Petitioner : Mr.A.Selvaraj

ORDER

This petition is filed aggrieved by the numbering of E.A.No.18 of 2023 in E.P.No.80 of 202 in O.S.No.475 of 1998 on the file of the District Munsif Court, Vikravandi.

2. It is submitted by the learned counsel for the petitioner that the petitioner/plaintiff has earlier filed O.S.No.475 of 1998 for recovery of money against the second respondent herein/defendant and the said suit was decreed



C.R.P.No.1284 of 2023

and became final. The petitioner/plaintiff/decreed holder has filed E.P.No.195 of 2013, which was subsequently re-numbered as E.P.No.80 of 2020. E.A.No.213 of 2015 is filed by the son of the judgment debtor challenging the execution proceedings in respect of the schedule mentioned property therein. The petitioner/decreed holder filed counter therein, and after so many adjournments, when there was no representation from the judgment debtor's son, who is the claim petitioner in E.A.No.213 of 2015, the said application came to be dismissed for default on 08.09.2021. Subsequently, execution proceedings were taken up and the property in question was sold for execution of the decree on 10.11.2022 and the same was posted for confirmation of sale on 13.1.2023. However, prior to the confirmation of sale, the judgment debtor's son filed E.A.No.18 of 2023 seeking to restore E.P.No.213 of 2015, which was dismissed for default, thereby, the sale could not be confirmed.

3. Now, the petitioner submits in the revision petition that numbering of E.A.No.18 of 2023 itself is erroneous and thereby, he sought for striking down E.A.No.18 of 2023 itself. According to the petitioner, he has not filed any counter in E.A.No.18 of 2023 and without contesting the same, he has approached this Court. The petitioner/decreed holder is expected to file a counter and submit the arguments and if he gets an adverse orders, and if he feels



C.R.P.No.1284 of 2023

aggrieved, he can approach this Court seeking interference, but at this stage, once E.A.No.18 of 2023 is numbered, without even filing counter and contesting, he cannot approach this Court for striking down E.A.No.18 of 2023 itself. It is submitted that the very intention of the petitioner in E.A.No.18 of 2023, who is judgment debtor in E.P.No.80 of 2020 is to see that the matter is dragged on for a longer period.

4. Considering the circumstances, this Civil Revision Petition is disposed off, with a direction to the learned District Munsif, Vikravandi to dispose off E.A.No.18 of 2023 as expeditiously as possible, not later than two month from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

24.04.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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C.R.P.No.1284 of 2023

DR.D.NAGARJUN, J.,
ms

To

The District Munsif Court,
Vikravandi.

C.R.P.No.1284 of 2023

24.04.2023