



WEB COPY



CRP.No.2447 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.2447 of 2023
and
C.M.P.No.15255 of 2023

1.Meghna Girish. Shah
2.Mehul Girish Shah
Rep. by his Power of Attorney
Mrs.Meghna Girish Shah

... Petitioners

Vs.

Mrs. Manjula Ben J.Shah (Deceased)
1.V.Prakash Lal
2.Yogesh J. Shah

... Respondents

PRAYER: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to quash the Execution Proceedings in E.P.No.1462 of 2016 in O.S.No.3672 of 2006 on the file of the X Assistant City Civil Court, Chennai.

For Petitioners : Mr. Thomas T. Jacob



WEB COPY



CRP.No.2447 of 2023

For R1 : Mr. R. Munuswamy

For R2 : No appearance

ORDER

The petitioners have filed this petition to quash the Execution Proceedings in E.P.No.1462 of 2016 in O.S.No.3672 of 2006 on the file of the X Assistant City Civil Court, Chennai.

2. Heard Mr.Thomas T. Jacob, the learned counsel for the petitioners and Mr. R. Munuswamy, learned counsel appearing for the 1st respondent and perused the materials available on record.

3. Before the trial Court, the revision petitioners herein are the 3rd and 4th Judgment Debtor in E.P.No.1462 of 2016 filed by the respondent / decree holder arising out of the decree passed in O.S.No.3672 of 2006. The contention of the revision petitioners are that they are not the original parties in the suit proceedings, nor decree was passed against them and so the Decree Holder is not entitled to initiate the Executing proceedings but they were added as 3rd and 4th Judgment debtor in the executing proceedings.



CRP.No.2447 of 2023

Hence, they want to set aside the entire Executing proceedings against them.

WEB COPY

4. The learned counsel for the 1st respondent submitted that he has filed a original suit against the grand mother of the revision petitioner and thereafter as per the request may by her a memo was filed stating that “ On the expiry of Mr.Jayanthilal Manilal Shah on 14.07.1975 the right, title and interest in the premises owned by Mr.Jayanthilal Manilal Shah jointly and absolutely vested on the late grand mother of the petitioners the deceased 1st defendant Mrs.Manjulabhen Shah; the 2nd respondent herein Mr.Yogesh Shah and also on the father of the petitioners Mr.Girish J Shah. It is submitted that on the death of the father of the petitioners Mr.Girish J Shah on 28.01.1986, the right, title and interests in the Schedule B property purchased by Late Mr.Jayanthilal Manilal Shah partly vested upon the petitioners. He further submitted that as per the oral arrangement the 1st respondent obtained a patta in his name in respect of the passage (R.S.No.3135/7), which is in his possession and enjoyment in C.A.No.2142/2004-05 as early as on 23.11.2004. That being so, all of a sudden in December 2004 the owners of the property at Door No.36 started



CRP.No.2447 of 2023

troubling him by erecting a Grill Gate in his exclusive passage area. Hence there were exchange of notices and ultimately he filed a suit against the owners of the property in Door No.36, namely Mrs.Manjulabhen Jayantilal Shah (deceased) and Yogesh J.Shah / 2nd respondent before the IV Assistant City Civil Court, Chennai in O.S.No.3672 of 2006 for the relief of mandatory injunction directing the defendants to remove the iron grill gate erected on the Southern side of their compound wall having opening in the suit item no.2 and close the opening and for permanent injunction and other consequential reliefs. Both the Courts below passed an order in favour of the respondents, thereafter they filed have filed E.P.No.1462 of 2016, for execution of the said decree.

5. On considering the submissions made by both side counsels, and on a perusal of the records, I do not find any illegality in the executing proceedings, accordingly the petition is dismissed as devoid of merits.

6. However, liberty is granted to work out the remedy before the executing Court under Section 47 of CPC. The learned trial Judge is



CRP.No.2447 of 2023

directed to dispose of the case within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.10.2023

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation: Yes/No

rri

To

- 1.The X Assistant City Civil Court, Chennai.
2. The Section Officer,
VR-Section, High Court of Madras.

T.V.THAMILSELVI, J.



WEB COPY



CRP.No.2447 of 2023

rri

C.R.P.No.2447 of 2023
and C.M.P.No.15255 of 2023

30.10.2023