



C.R.P. No. 2596 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
C.R.P. No. 2596 of 2023

D. Sakthivel

...Petitioner

.Vs.

R. Chinnammal (died)

1. Smt. Padmavathy
2. Smt. Nagarathinam
3. D. Shanmugam
- 4.D.Natarajan
- 5.D.Subramaniam

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to dispose the execution petition filed in E.P.No.123 of 2016 in O.S.No.2194 of 2005 on the file of III Additional Munsif Coimbatore and pass orders.

For Petitioner

: Mr. V. Venkatasamy



C.R.P. No. 2596 of 2023

ORDER

This petition is filed seeking a direction to dispose the execution petition filed in E.P.No.123 of 2016 in O.S.No.2194 of 2005 on the file of III Additional Munsif Coimbatore and pass orders.

2. The facts of the case, are that there was a property dispute between the petitioner herein and the respondents. The first respondent herein has filed a second Appeal in S.A.1084 of 2015 before this Court against the decree passed by the Principal Sub Ordinate Court, Coimbatore in A.S.No.1 of 2013 dated 13.10.2015 arising out of the Judgment and decree passed by the III Additional District Munsif Court, Coimbatore in O.S.No.2194 of 2005 dated 11.07.2012. The S.A.1084 of 2015 was dismissed vide order dated 09.11.2020. Thereafter, the petitioner has filed E.P.No.123 of 2016 in O.S.No.2194 of 2005. Subsequently, the son of the first respondent has filed an application under Order 21 Rule 97 and 99 of CPC, to set aside the order passed in O.S.No.2194 of 2005 dated 11.07.2012 and S.A.1084 of 2015 dated 09.11.2020, due to which, E.P.No.123 of 2016 in O.S.No.2194 of 2005 is pending. Hence, this petition.



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3. The learned counsel for the petitioner submitted that the grievance of the petitioner is that the learned Judge ought not entertained the application filed by the third party. He further submitted that an undertaking was filed by the first respondent/Judgment debtor in S.A.No.1084 of 2015 dated 09.11.2020 to vacate and handover the vacant possession of the suit property to the decree holders on or before 30.04.2021 and the said undertaking was not complied with, which has given rise to this petition.

4. On a perusal of records it is made clear that the decree was passed in favour of the petitioner and the first respondent had also given an undertaking that he will vacate and handover the vacant possession of the suit property and the same has not been complied by the first respondent, which calls for interference by this Court.

5. In view of the above, the learned III Additional Munsif Coimbatore is directed to dispose the execution petition filed in E.P.No.123 of 2016 in O.S.No.2194 of 2005 within a period of three months from the



C.R.P. No. 2596 of 2023

date of receipt of a copy of this order.

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5. With the above directions, this Civil Revision Petition is disposed of. No order as to costs.

01.08.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The III Additional Munsif Coimbatore



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C.R.P. No. 2596 of 2023

V.BHAVANI SUBBAROYAN,J.
Smn

C.R.P. No. 2596 of 2023

01.08.2023