



C.R.P. No. 3337 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3337 of 2023

and

C.M.P.No.20686 of 2023

1. G. Munirathinam
2. M. Vijayalakshmi

..Petitioners

.Vs.

1. Purusothaman
2. A.M. Kannan
3. Yadhugirinathan
4. Ramakrishnan

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order in EA.No.5195 of 2018 in E.P.No.1128 of 2018 in OS No.4893 of 2004 dated 01.07.2023 on the file of the X Assistant City Civil Court, Chennai and pass orders.

For Petitioner : Mr. G. Appavu



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ORDER

This petition is filed to set aside the order and decretal order in EA.No.5195 of 2018 in E.P.No.1128 of 2018 in OS No.4893 of 2004 dated 01.07.2023 on the file of the X Assistant City Civil Court, Chennai and pass orders.

2. The case of the petitioner is that the mother of the second petitioner/Chellammal has filed the suit in O.S.No.4893 of 2004 seeking a direction to the defendants to vacate and hand over peaceful possession of the subject property without causing any damages and the same decreed in favour of the plaintiff on 16.04.2008 and the learned Judge has issued a direction to the respondents to vacate and handover the premises to the plaintiff. Thereafter, the decree holder has filed E.P.No.1128 of 2018 to attach and sale of movable property against the Judgment debtors who are the petitioners herein. Aggrieved over the same the Judgment debtors has filed E.A.No.5194 of 2018 and the same was dismissed vide order dated 01.07.2023, which has given rise to this petition.



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3. The learned counsel for the petitioners would submit that on the request made by the parents of the second petitioner to construct a residential portion in the first floor of the subject property, they have put up a construction. Further more during house warming function the parents of the second petitioner promised and assured that the first floor portion will be settled in favour of the petitioner and finally refusing to do so is not fair. Hence prays to allow this petition.

4. On going through the impugned order, it is seen that the learned Judge has made an observation that the petitioners are not allowing the the decree holder to enjoy the fruits of the decree and further more the petitioners have dragged on this E.P. Proceedings. It is also pertinent to note than an original decree was passed on 16.04.2008, even then, the decree holders was not able to recover possession from the Judgment debtors which finding in the considered view of this Court is perfectly valid in the eye of law. Therefore, there is no necessity to interfere with the impugned order passed by the Court below.



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5. In view of the above, the order dated 01.07.2023 passed in EA.No.5195 of 2018 in E.P.No.1128 of 2018 in OS No.4893 of 2004 dated 01.07.2023 on the file of the X Assistant City Civil Court, Chennai is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

12.09.2023

smn

Index : Yes/No

Internet: Yes/No

To.

The X Assistant City Civil Court, Chennai



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V.BHAVANI SUBBAROYAN,J.
Smn

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