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C.R.P.No.664 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM:

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No. 664 of 2020

and

C.M.P.No. 3457 of 2020

Dr.Ambekar Nagar Residents Welfare Association
Royapettah, Rep by its President, P.Anbukarunanidhi,
Royapettah, Chennai – 600 014.

...Petitioner

Versus

1. Sri Swamy Hathiramji Mutt,
Rep by its Mahant Sri.Arjundossji,
Gandhi Road, Tirupathi,
Andhra Pradesh.

2.Ananthakrishna Babu
Hamsa Bai(Deceased)

3.Suseendran
K.Krishnamurthy(Deceased)

... Respondents.

PRAYER: Civil Revision Petition filed under filed under Section 115 of Code of Civil Procedure, against the fair and decretal order dated 29.07.2019 passed in E.A.No.2696 of 2012 in E.P.No.725 of 1984 in O.S.No.587 of 1970, on the file of the 10th Assistant, City Civil Court, Chennai.

For Petitioner : Mr.R. Thiagarajan

For Respondents : No appearance



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ORDER

The Association has filed an application under Order XXI Rule 97 of Code of Civil Procedure. It claims to be a third party intervenor claiming right of residence in the area which has been declared by the Court as belonging to the 1st respondent. The decree is of the year 1970 and Execution petition has been pending from 1984.

2. A petition under Order XXI Rule 97 of CPC can be filed only by the decree holder or by auction purchaser in execution of a decree. A third party cannot maintain an application under Order XXI Rule 97 of CPC. This position has been settled in ***Donna Rossi Kitchen Line vs D. Harikrishnan (2014) 2CTC 690.***

3. Apart from that, I find that the petition itself has been filed by an association. An association is not a legal person. Therefore, the petition is not maintainable at the instance of the association or by third party under Order XXI Rule 97. Therefore, I dismiss the civil revision petition.



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4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

07.09.2023

Index: Yes/ No
Speaking Order / Non-Speaking Order
nr

To

The learned XX Assistant City Civil Court, chennai.



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V.LAKSHMINARAYANAN, J.

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