



C.R.P.No. 3408 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No. 3408 of 2017

and

C.M.P.No.15863 of 2017

Narayanan

....

Petitioner

Vs

Ragumankhan (Died)

1. Pasumunisa
2. Akbarbasha
3. Jakirabagum
4. Ayubkhan
5. Shajahan
6. Sayarabanu

....

Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order dated 21.07.2017 passed in E.A.No.47 of 2017 in E.P.NO.31 of 2008 in O.S.No.452 of 1994 on the file of the District Munsif Court, Pappireddipatti.

For Petitioner : Mr.I.Deeraj
for Mr.P.Valliappan
For Respondents : Mr.B.Elango
for Mr.G.Jayachandran



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 21.07.2017 passed in E.A.No.47 of 2017 in E.P.NO.31 of 2008 in O.S.No.452 of 1994 on the file of the District Munsif Court, Pappireddipatti, thereby dismissing the petition to stay the execution proceedings in E.P.No.31 of 2008 pending disposal of the second appeal and the same was dismissed and aggrieved by the same the present Civil Revision Petition.

2. The petitioner is the Judgment Debtor and the respondents are the Judgment Holder. The respondent filed a suit for declaration, injunction and also mandatory injunction to demolish and remove the construction put up in the suit property. The said suit was decreed in favour of the respondents by a Judgement and Decree dated 19.03.2004. Aggrieved by the same, the petitioner filed an appeal suit in A.S.No.21 of 2008. The Appellate Court also dismissed the appeal suit by a Judgment and Decree dated 05.01.2012 and the order of the Trial Court was confirmed. In order to execute the decree, the respondents filed an Execution Petition in REP No.31 of 2008 on the file of the District Munsif Court, Pappireddipatti.



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Pending execution petition, the petitioner herein filed an application to stay the execution proceedings till the disposal of the other cases and also the second appeal.

3. A perusal of the records reveals that aggrieved by the Judgment and Decree passed in Appeal Suit in A.S.No.21 of 2008 on the file of the Subordinate Court, Harur, the petitioner filed the second appeal in SA SR.No.51068 of 2016 on 15.07.2016 with delay. However, even today, the delay itself is not yet condoned by this Court. It is pending for the past seven years without any interim order. It seems that the petitioner simply had thrown some papers by way of second appeal and kept the execution petition pending for the past seven years. Therefore, the Court below rightly dismissed the petition.

4. In view of the above, this Court finds no infirmity or illegality in the order dated 21.07.2017 passed in E.A.No.47 of 2017 in E.P.NO.31 of 2008 in O.S.No.452 of 1994 on the file of the District Munsif Court, Pappireddipatti. Accordingly, this Civil Revision Petition stands dismissed.



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The Execution Court is directed to dispose of the Execution Petition within a period of twelve weeks from the date of receipt of a copy of this order.

Consequently, connected miscellaneous petition is closed. No costs.

21.02.2023

Index:Yes/No

Neutral Citation :Yes/No

Speaking Order: Yes/No

Lpp

To

The District Munsif,
Pappireddipatti.

G.K.ILANTHIRAIYAN.J,



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