



C.R.P.No.4166 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4166 of 2022

and

C.M.P.No.21781 of 2022

1.Karthikeyan

2.Chinduja

... Petitioners

Vs.

1.M.Ravi

2.Natarajan

G.Narayanasamy (died)

3.Andal

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order 29.08.2022 made in E.A.No.656 of 1997 in E.P.No.87 of 1995 on the file of the District Munsif Court, Udumalpet.

For Petitioners

: Dr.P.Vasudevan

For Mr.V.Chinnasamy

For R1

: Mr.A.Arun



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ORDER

The Civil Revision Petition is filed against the order dated 29.08.2022 passed in E.A.No.656 of 1997 in E.P.No.87 of 1995.

2. The revision petitioners are the impleaded respondents / judgment debtors in the Execution Petition.

3. The Suit was instituted for Recovery of Money based on the promissory note executed on 08.03.1986 for a sum of Rs.10,000/- in favour of the one Sivagami.

4. The Suit in O.S.No.94 of 1989 was decreed in favour of the plaintiff by the District Munsif Court, Udumalpet on 14.12.1989.

5. The 3rd respondent / judgment debtor preferred an Appeal Suit in A.S.No.12 of 1991 and the said appeal was dismissed by the Sub Court,



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Udumalpet. Subsequently, the decree holder filed Execution Petition in E.P.No.87 of 1995 to execute the decree passed in O.S.No.94 of 1989 and the property belongs to the 3rd respondent herein was attached by the Court and brought for auction.

6. It is not in dispute that the property was auctioned and the sale deed was also executed in favour of the auction purchaser / 1st respondent. After the execution of the decree by further executing the sale deed, the E.A.No.656 of 1997 was filed for delivery of possession under Order XXI Rule 95 of the Civil Procedure Code.

7. The petition was filed by the auction purchaser in favour of whom the sale deed was executed, based on the decree passed in O.S.No.94 of 1989. The Execution Court elaborately adjudicated the issues and accordingly, allowed the petition by ordering delivery on 22.09.2022. Challenging the said order of delivery, the present Civil Revision Petition is filed.



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8. The revision petitioners herein are the legal heirs of the judgment debtor and the subject property is an ancestral property and therefore, the delivery petition is to be rejected.

9. The learned counsel for the respondent objected the said contention by stating that the very same petitioner herein earlier filed an Obstructor Petition, which was dismissed by the Execution Court and therefore, the present petition filed by the revision petitioner in E.A.No.656 of 1997 is not maintainable.

10. The contention of the revision petitioners that they are the legal heirs of the judgment debtor and the subject property is an ancestral property is unacceptable and deserve no merit consideration. The decree became final and it was executed by way of sale deed in favour of the



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1st respondent / auction purchaser, who in turn, filed a petition for Delivery of possession and therefore, the order impugned passed by the District Munsif Court, Udumalpet in E.A.No.656 of 1997 in E.P.No.87 of 1995 dated 29.08.2022 is in consonance with the principles settled and there is no infirmity as such.

11. Accordingly, the Civil Revision Petition in C.R.P.No.4166 of 2022 stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

31.01.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

The Judge,
District Munsif Court,
Udumalpet.

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S.M.SUBRAMANIAM, J.

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