



CRP. No. 4109 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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& CMP No. 25082 of 2023

1.Kutti @ Babu
2.Renu
3.Natarajan
4.Venkatesan
5.Ambiga
6.Venda
7.Meera
8.Saravanan
9.Balaji
10.Baskaran
11.Dass

...Petitioner in both petitions

Vs.

1.S.Selvaraj
2.S.Murugesan
3.Elumalai
4.Ammu
5.Vijaya
6.Santha
7.Latha
8.Maliga



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- 9.Govindan
10.Chinnaponnu
11.Magi
12.Boopathi Ammal
13.Venkatesan
14.Elumalai
15.Thirupathi
16.Vinayagam
17.Ramasamy

....Respondent

PRAYER : This petition filed under Article 227 of the Constitution of India, to allow the CRP and set aside the order dated 11.09.2023 passed in E.A No. Nil of 2023 in E.P No. 251 of 1998 in O.S No. 2479 of 1979 by the Additional District Munsif, Vellore.

For Petitioner
(in both petitions) : Mr.K.Venkateswaran

ORDER

This petition has been filed set aside the order dated 11.09.2023 passed in E.A No. Nil of 2023 in E.P No. 251 of 1998 in O.S No. 2479 of 1979 by the Additional District Munsif, Vellore.

2. The petitioner herein filed E.A No. Nil of 2023 in E.P No. 251 of 1998 in O.S No. 2479 of 1979 before the Additional District Munsif,



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Vellore, under Section 47 of CPC, stated that property described in the EP is not tallied and was not able to identify even after several attempts of the Court amen. The Property mentioned in EP is not exist and might be converted into a street. Further, the boundaries and the description of the property in the decree are fiction and cannot be identified and therefore the delivery of possession is not permissible and the decree is non executable and EP has to be dismissed. After considering the submissions of the learned counsel for the petitioner, the Court below concluded that similar nature of the application under Section 47 of CPC between the same parties have already been filed and decided by this Court in E.A No. 404 of 1999, dated 23.01.2006. Hence, the present application is hit by resjudicata under Section 11 of CPC and it cannot be entertained and rejected the same. Challenging the same, the petitioner filed this petition.

3. The learned counsel for the petitioner submits that the suit was filed in the year 1979 and the plaintiff was not approached the Court with correct particulars of the suit property and in fact on ground no such property is existed and the property belongs to these petitioners are attempted to take over by the court amen under guise of said decree as such is not permissible to that effect Court amen report also clearly reveals that



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he was unable to take the delivery of the property and no proper boundary was described in the decree.

4. On perusal of the records, it reveals that the delivery warrant was returned unexecuted as the schedule of the property boundaries in the such side not given as per decree copy and there is a house constructed by the third party and also there is no boundary stone. Further, the VAO of the north town also informed as the Town FM Book available only with the town surveyor and help of the Town surveyor is required to identify the property. Further, the same issue has been decided by the same Court in E.A No. 404 of 1999 on 23.01.2006. Hence, the said application is hit by resjudicata and the same was rightly appreciated by the Trial Court which needs no interference.

5. In the result, this Civil Revision Petition is dismissed. No Cost. Consequentially, connected miscellaneous petition is closed.

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To
The Additional District Munsif, Vellore.



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T.V.THAMILSELVI,J.

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