



WEB COPY

C.R.P.No.135 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.135 of 2023

and

C.M.P.No.1121 of 2023

Durai Kuppusamy

... Petitioner

Vs.

1.Abdul Sukur

2.Vasanthi

3.Hari

4.Vatchala

5.Nalini

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order of the Learned District Munsif, Arakkonam dated 30.06.2022 made in E.P.No.19 of 2020 in O.S.No.452 of 1986.

For Petitioner

: Mr.Jeremiah Gregory John



ORDER

The Civil Revision Petition has been filed to set aside the order of the Learned District Munsif, Arakkonam dated 30.06.2022 made in E.P.No.19 of 2020 in O.S.No.452 of 1986.

2. The revision petitioner is the second defendant/judgment debtor No.2 in the suit. The 1st respondent is the plaintiff/decreed holder and the suit was instituted by the first respondent herein for recovery and possession, which was decreed in his favour in the year 2010. The first respondent/decreed holder filed Execution Petition in E.P.No.19 of 2020 in O.S.No.452 of 1986 and the said Execution Petition was ordered by the Executing Court on 30.06.2022. The decree was directed to be executed in the interest of justice and delivery was ordered by 27.07.2022. Challenging the said order dated 30.06.2022, the present Civil Revision Petition is filed.

3. The learned counsel for the revision petitioner mainly contended that a surveyor is to be appointed to measure the boundaries of the subject property.

4. Such a course cannot be permitted in the Execution Proceedings, in view of the fact that the suit was adjudicated and decreed in favour of the



plaintiff in the year 2010. Once the suit was adjudicated on merits and a decree was passed, at the stage of execution, the parties cannot again claim for survey of the boundaries or otherwise, which is impermissible and in the event of allowing such survey to go on, the decree itself will be defeated. The scope of Execution Petition cannot be expanded for the purpose of further adjudication of the issues between the parties. Once the decree is passed, execution is consequential.

5. Thus, this Court is of an opinion that there is no infirmity in respect of the order of delivery passed by the Execution Court in E.P.No.19 of 2020 in O.S.No.452 of 1986 dated 30.06.2022. Accordingly, the revision petitioner is bound to hand over the possession as per the decree to the 1st respondent/decreed holder within a period of one month from today and consequently, the Civil Revision Petition in C.R.P.No.135 of 2023 stands dismissed. No costs. Connected miscellaneous petition is closed.

24.01.2023

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Index : Yes
Speaking order
Neutral Citation : Yes



To

The District Munsif,
Arakkonam.

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S.M.SUBRAMANIAM, J.

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