



C.R.P.No.4944 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

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

C.R.P.No.4944 of 2023 &

C.M.P.No.29037 of 2023

Antony Arockia Selvam

... Petitioner

Vs.

Geetha

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure to set aside the fair and decretal order dated 27.09.2023 passed by the learned District Munsif Court, Ulundurpettai in E.A.No.1 of 2023 in E.A.No.37 of 2021 in E.A.No.536 of 2005 in E.P.No.18 of 2003.

For Petitioner

: Mr.Sharath Chandran

ORDER

Challenging the order dated 27.09.2023 passed in E.A.No.1 of 2023 in E.A.No.37 of 2021 in E.A.No.536 of 2005 in E.P.No.18 of 2003 on the file of the learned District Munsif Court, Ulundurpettai, the petitioner preferred the present revision.



C.R.P.No.4944 of 2023

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2. Originally the suit in O.S.No.354 of 2000 has been filed by the respondent seeking to redeem the mortgage executed by one Arockiasamy vide deed dated 25.10.1993. The trial judge decreed the suit in favour of the plaintiff. Accordingly, the plaintiff filed an execution petition in E.P.No.18 of 2003 along with an application under Order 21 Rule 95 in E.A.No.536 of 2005. Pending this application, the petitioner herein filed E.A.No.37 of 2021 under Order 21 Rule 97 read with section 151 of CPC and E.A.No.36 of 2021 to stay the proceedings in E.A.No.536 of 2005. The Executing Court allowed E.A.No.36 of 2021 and heard E.A.No.37 of 2021. However, before leading evidence by the petitioner to establish his right, the Executing Court reserved the case and posted the same for orders. Hence, the petitioner filed E.A.No.1 of 2023 to reopen E.A.No.37 of 2021, which came to be dismissed on 27.09.2023, against which the present revision.

3. Learned counsel for the petitioner would submit that refusing to reopen the application for trial, the Executing Court has adopted a summary procedure which is alien to the proceedings under Order 21 Rule 97 of the Code of Civil Procedure and the Court has failed to exercise the jurisdiction



C.R.P.No.4944 of 2023

that is vested with, which warrants interference by this Court under Section 115 of the Code of Civil Procedure.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Considering the facts and circumstances of the case, the findings of the trial court is set aside and E.A.No.1 of 2023 is allowed by reopening E.A.No.37 of 2021, on condition that the revision petitioner to deposit the entire decretal amount together with interest, within a period of six weeks from the date of receipt of a copy of this order.

6. With the aforesaid direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citations : Yes/No



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C.R.P.No.4944 of 2023

To

1.The District Munsif Court, Ulundurpettai



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C.R.P.No.4944 of 2023

T.V.THAMILSELVI,J.

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C.R.P.No.4944 of 2023

21.12.2023