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C.R.P.No.2686 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

CORAM : JUSTICE N.SESHASAYEE

C.R.P. No.2686 of 2019  
and CMP.No.17719 of 2019

Parvathiammal (Died)

1.Sathianathan

2.Chandran

3.Velayudam

... Petitioners / Petitioners  
Petitioners / Decree Holders

Vs.

Ravanammal (Died)

1.Padmalakshmi

2.Sathyavali Balasubramani

3.Sundaravalli

4.Poongodi

5.Neelavathi

... Respondents / Respondents  
Respondents / Judgment Debtor

**Prayer :** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order dated 30.01.2018 passed in E.A.No.121 of 2017 in E.A.No.61 of 2012 in E.P.SR.No.1274 of 2009 by the District Munsif, Thiruvottiyur and allow the E.A.No.121 of 2017 in E.A.No.61 of 2012 in E.P.SR.No.1274 of 2009 by allowing the above civil revision petition.



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For Petitioners : Mr.E.Prabu  
For Respondents : Mr.K.Prabhakaran [R1]  
RR2 to R5 [ No appearance]

### **ORDER**

1.1 The suit in O.S.No.87/1997 was laid for recovery of possession and for delivery of vacant site after removal of the superstructure put up by the defendant. The defendant / tenant of the site on his part had filed an application in I.A.No.354/2001 under Section 9 of City Tenants Protection Act for purchase of a vacant site. The said application was allowed and the trial Court has also determined the extent required to be sold to the defendant and the value to be paid by her. And according to the defendant/tenant, the amount too has been deposited in the Court.

1.2 Be that as it may, as it was felt that the value of the site so fixed by the Court appears to be higher, the male heirs of the defendant preferred an appeal in CMA.No.20/2001 before Sub Court, Ponneri, and that was dismissed on 28.06.2004. It is to be stated that, by that time, the defendant had passed away, and was replaced by her legal heirs. Her male heirs are represented as petitioners 2 to 4, and her female heirs as respondents 3 to 6



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in the said EP, in addition to the plaintiffs, who are arrayed as respondents

1 and 2. Indeed, the legal heirs of the defendant have got themselves impleaded even before the trial Court.

1.3 It is in this setting, the tenants / defendant had laid EP in 2009. And that was returned by the Registry of the trial Court for curing certain defects and the same was not done within the time stipulated by the Execution Court. Consequently, the appellants/tenants had filed E.A.No.61/2012 for condonation of delay of 1023 days in representing the EP. However, in the short cause-title to the application in E.A.No.61/2012, the petitioners' name is described as 'Parvathiammal and others' (Parvathiammal is the original defendant). Therefore, they have filed another application to correct the short cause title and to list the name of the legal heirs of the defendants. This was dismissed by the trial Court vide impugned order dated 30.01.2018. Hence, the revision petition.

2. Heard both sides. The learned counsel for the respondents herein informs the Court that in terms of the order passed by the trial Court in the application under Section 9 of CTP Act, there was a stipulation to the



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defendant to deposit the sale consideration of Rs.3,15,600/- in 36 equal monthly instalments of Rs.8,766/- per month. This was grossly breached by the revision petitioner / tenants as they chose their own time line for depositing the said amount. This would imply, there is a breach not only to the order of the trial Court, but also the relevant provisions of the CTP Act. And in view of this violation, the order passed under Section 9 of CTP Act is inexecutable.

3. Without passing any opinion for the present, this Court considers that the submissions made by the learned counsel for the respondents is one step too early. It is the stage where the execution petition itself has not been taken on record, and it apparently faces multiple hiccups, first due to the default of the defendant or her legal heirs as the case may be, and then by the dismissal of an application in E.A.No.121 of 2017 in E.A.No.61/2012. So far as the present prayer sought in E.A.No.121 of 2017 is concerned, it is too innocuous, and the trial Court has not adequately considered its significance and relevance, and has dismissed it. This Court deems it necessary to allow this application forthwith.



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4. So far as the contentions taken by the counsel for the respondents is concerned, he is required to reserve the same till such time when he gets an opportunity to oppose the execution petition as and when it is taken on record by the Execution Court. This Court yet again clarifies that no right of the respondents is foreclosed by the order now passed by this Court in this revision petition.

5. The revision petition is allowed subject to herein above stated. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2023

Index : Yes / No  
Internet : Yes / No  
Speaking order / Non-speaking order

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To:

1.The District Munsif  
Thiruvottiyur.

2.The Section Officer  
VR Section, High Court, Madras.



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N.SESHASAYEE.J.,

ds

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