



C.R.P.(MD)No.3169 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3169 of 2023

Vairathal (died) : Petitioner/LR of the deceased
counter claim decree holder

Vs.

RM.Poomayil :Respondent/Respondent/Defendant

(cause title is accepted vide Court order, dated 23.08.2023
made in CMP(MD)No.10222 of 2023
in CRP(MD)SR No.50472 of 2023)

Prayer : This Civil Revision Petition filed under Section 115 of C.P.C., to call for the records relating to the fair and decreetal order, dated 19.12.2022 made in E.P.No.26 of 2001 in O.S.No.25 of 2000 on the file of the learned District Munsif Court, Devakottai and set aside the same.

For Petitioner : Mr.R.Sundar Srinivasan

For Respondent : Mr.R.Suriyanarayanan



C.R.P.(MD)No.3169 of 2023

ORDER

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The Civil Revision Petition is directed against the order passed in E.P.No.26 of 2001 in O.S.No.25 of 2000, dated 19.12.2022 on the file of the learned District Munsif Court, Devakottai, dismissing the execution petition for default.

2. It is evident from the impugned order that in C.M.P.No.1048 of 2004 in S.A.No.238 of 2004, interim stay was granted and the same was made absolute vide order dated 15.12.2016 itself. But the Executing Court by observing that the execution petition was kept pending for several months; that there is no proper representation from any of the parties; that the said order copy has not been received and the same was also not found in the High Court's website and that the matter is unnecessarily pending for all these years, dismissed the execution petition.

3. Moreover, the Executing Court has also observed that the dispute is of trivial in nature for sunshade roof and window and that was pending for 21 years.



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4. Considering the entire facts and circumstances of the case, the observation made by the Executing Court is not proper and taking note of the fact that this Court has already made the stay order absolute, the dismissal of the execution petition for default is not proper and the same is liable to be set aside. Hence, the Executing Court is directed to restore the execution petition and kept it pending.

5. With the above direction, the Civil Revision Petition is disposed of. No costs.

12.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

1.The District Munsif Court, Devakottai.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
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Dated : 12.12.2023