



C.R.P(MD)No.1545 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.1545 of 2014

and

M.P.(MD)No.1 of 2014

1.Murugesan (died)
2.Gunasekaran
3.M.Selvarani
4.M.Rubiya
5.Minor Kowsik

... Petitioners

*[Minor fifth petitioner is represented by his mother third petitioner]
[petitioners 3 to 5 are brought on record as legal heirs of the deceased
first petitioner vide Court order dated 19.07.2022]*

-VS-

1.Palaniammal
2.Sathiya
3.Periyasamy
4.Valarmathi

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the order and decreetal order dated 11.03.2014 in E.P.No.86 of 2011 in O.S.No.309 of 1995 on the file of the Principal Subordinate Court, Karur.

For Petitioners : Mr.R.Devaraj
For R1 & R2 : Mr.N.Shanmugaselvam
For R3 & R4 : No Appearance



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ORDER

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The present revision petition has been filed challenging the order dated 11.03.2014 allowing the execution proceedings and to bring the property for sale pursuant to a maintenance decree.

2.The respondents 1 and 2 herein had filed O.S.No.309 of 1995 on the file of the Principal Sub Court, Karur for the recovery of past maintenance of Rs.22,000/- and for future maintenance at the rate of Rs.900/- per month for the first plaintiff. The plaintiffs had further prayed for sum of Rs.300/- per month for the second plaintiff till her marriage.

3.When the suit was pending, the revision petitioners had purchased the property from the first defendant in the suit, who is the husband of the first plaintiff and father of the second plaintiff. The suit was decreed as prayed for on 20.07.1999. The plaintiffs had filed E.P.No.86 of 2011. In the execution petition, it was mentioned that the second plaintiff got married on 08.12.2008. As per the execution petition, the first defendant /husband is liable to pay a sum of Rs.1,07,100/-.



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4.The purchaser was impleaded in the execution proceedings as fifth respondent. He objected to the execution of the decree and bring the property for auction. However, his objections were rejected by the execution Court and the execution petition was allowed to bring the property for auction. Challenging the said order, the present revision petition has been filed.

5.While the revision petition is pending, the revision petitioners/purchasers from the first defendant had deposited the entire amount as claimed in the execution petition on 14.09.2023. Hence, according to the learned counsel for the revision petitioners, since the decree is satisfied in full, the Executing Court may be directed to terminate the execution proceedings.

6.The learned counsel for the first respondent /wife had reported 'no instructions'.

7.Considering the above said facts, the order impugned in the revision petition is set aside and the Executing Court is directed to consider the fact whether the payment of Rs.1,07,100/- (Rupees One Lakh Seven Thousand and Hundred only) is in full satisfaction of the decree dated 20.07.1999 or



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not. In case, if the payment of the revision petitioners fully satisfies the decree, the Executing Court is directed to terminate the proceedings or else the Executing Court may proceed to bring the property for auction. In case, if the Executing Court finds any deficit in the satisfaction of the decree amount, the revision petitioners may be granted four weeks time to deposit the deficit amount. If there is any default on the part of the revision petitioners, the Executing Court can proceed further and bring the property for fresh auction.

8. With the above said observations, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Principal Subordinate Court,
Karur.



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R.VIJAYAKUMAR,J.

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