



C.R.P.No.1267 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1267 of 2016

and

C.M.P.No.7045 of 2016

K.Tamilselvan

.. Petitioner

Vs.

1.Chinnasamy

2.Muniakkal

3.Bakkiam

4.Jothi

5.Amsaveni

6.Ponnan

7.Mathammal

8.Konri @ Rajappan

9.Chandra

10.Samikannu

11.Mallika



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12.Annamalai

13.Thangammal

14.Devarajan

15.Kandasamy

.. Respondents

Prayer : The Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order of the learned Principal District Judge, Dharmapuri dated 14.03.2016 made in Unnumbered E.A.No. /2016 in E.P.No.32 of 2015 in O.S.No.44 of 2010.

For Petitioner : Mr.S.Saravanakumar

For RR1 to 5 : Mr.M.R.Jothimanian

For RR6 & 7 : Refused

For RR8, 10, 11 & 14 : Disd. vide order 10.02.2023

For RR9, 12, 13 and 15 : Served, No Appearance

ORDER

This Civil Revision Petition arises against an application in Unnumbered E.A.No. /2016 in E.P.No.32 of 2015 in O.S.No.44 of 2010 on the file of the learned Principal District Judge, Dharmapuri.

2. The claim of the petitioner is that, a decree was passed in



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O.S.No.44 of 2010 by way of filing a settlement memo on 06.02.2014 claiming that he has 5/32 shares in the suit schedule mentioned property.

He has filed an application under Order XXI Rule 97 of Code of Civil Procedure read with Order I Rule 10 of the Code of Civil Procedure. This application was rejected without numbering. Hence, this revision.

3. I am afraid that an application under Order XXI Rule 97 of Code of Civil Procedure cannot be filed by a third party. As per the very provision, it can be filed only by the decree holder or by an auction purchaser, who are obstructed while taking possession of the property during the time of execution. An application by a third party is maintainable only when it is filed under Order XXI Rule 99 of the Code of Civil Procedure and that too, after his dispossession.

4. A reading of the affidavit makes it clear that the petitioner wants to agitate the correctness of the Lok Adalat Award dated 06.02.2014. An executing Court cannot go behind the decree including a Lok Adalat Award. It has to execute the award as it stands. Incase, the petitioner has any grievance with respect to the Lok Adalat Award dated 06.02.2014, his remedy is to challenge the same in accordance with law. Without



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doing so, it is not open to him to ask the executing Court to adjudicate upon the validity of correctness of the said settlement.

5. Therefore, the application not being maintainable, it had been rightly rejected by the executing Court on 14.03.2016. Consequently, the Civil Revision Petition stands dismissed with a liberty granted to the petitioner to challenge the Lok Adalat Award dated 06.02.2014 in a manner known to law. The connected Civil Miscellaneous Petition is closed.

01.04.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The Principal District Judge,
Dharmapuri

C.R.P.No.1267 of 2016
and
C.M.P.No.7045 of 2016

01.04.2024