



C.R.P.(PD)No.1606 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.1606 of 2024

and

C.M.P.No.8586 of 2024

1.Vimal

2.Naveen

.. Petitioners

Vs.

1.Padhmanaban

2.Jayapriya

3.Minor Mithun Rosan

Represented by Court Guardian &

next friend, A.N.Sathish, Advocate

.. Respondents

Prayer : The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the docket order dated 14.02.2024 of the learned I Additional District Munsif, Erode in E.P.No.142 of 2012 in O.S.No.326 of 2005.

For Petitioner : Mr.R.Chandrasudan



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ORDER

This revision arises against an order of delivery passed by the Executing Court in E.P.No.142 of 2012 in O.S.No.326 of 2005.

2. The legal heirs of the judgment debtor are revisionists before me. O.S.No.326 of 2005 ended in a decree in favour of the respondents. An appeal was preferred as against the said decree in A.S.Nos.54 and 64 of 2013. The said appeals were dismissed on 25.09.2014. Thereafter, a Second Appeal had been preferred before this Court. The stay that was granted by this Court had not been extended. The Executing Court has been granting time to enable the judgment debtors to move to the High Court and obtain a stay.

3. The learned counsel for the judgment debtors/civil revision petitioners pleads that they have moved an application for transpose and I have allowed that transpose application on March 2024. I find thereafter, the judgment debtors have not bothered to move the High Court and get an order of stay in their favour.

4. The trial Court, having kept the Execution Proceedings pending for



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more than 12 years, decided to order delivery. When there is no order of stay or injunction restraining the Executing Court from ordering delivery, the mere fact that an appeal is pending should not prevent the Executing Court from passing further orders in the matter.

5. Therefore, I do not find any error in the action of Executing Court ordering delivery in this case as there are no order of stay by this Court or any other Court restraining execution of E.P.No.142 of 2012.

6. Leaving it open to the petitioner to move to this Court for an interim order, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

18.04.2024

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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 I Additional District Munsif,
Erode

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and

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