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C.M.S.A.No.65 of 2024
and C.M.P.No.21591 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.S.A.No.65 of 2024

and

C.M.P.No.21591 of 2024

Padmavathi

... Appellant

Vs.

1. D.Shanmugam

2. D.Natarajan

3. D.Subramanian

4. D.Sakthivel

5. Nagarathinam

... Respondents

Prayer : Civil Miscellaneous Second Appeal filed under Section 100 of C.P.C. against fair and decreetal orders dated 01.12.2023 in E.A.No.7/2023 in E.P.No.123/2016 on the file of the Additional District Munsif Court, Coimbatore, confirming the order dated 27.03.2024 in C.M.A.No.3/2024 on the file of the II Additional Subordinate Court, Coimbatore.

For Appellant : Mr.C.Deivasigamani

For Respondent : Mr.V.Venkadasamy



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J U D G M E N T

Challenging the orders dated 01.12.2023 passed in E.A.No.7/2023 in E.P.No.123/2016, the present appeal is filed.

2. The appellant is the plaintiff in O.S.No.87/1998. She filed the said suit for a bare injunction restraining the respondents / defendants from interfering with her peaceful possession and enjoyment of the property in Door No.23, Nehru Street, Coimbatore, except under due process of law and the same was decreed by the II Additional District Munsif, Coimbatore, vide his decree and judgment dated 11.11.2010. Similarly, the respondents filed a suit for ejectment in O.S.No.2194/2005 before the III Additional District Munsif, Coimbatore, against the present appellant and two others. The said suit was dismissed by the trial court judge, as against which the respondents herein filed an appeal in A.S.No.1/2013 before the Principal Subordinate Court, Coimbatore. The learned Principal Subordinate Judge after analysing the evidence on record, allowed the appeal vide his decree and judgment dated 13.08.2015 and directed the present appellant to vacate the premises within a period of four months from the date of the decree. Aggrieved over the same, the



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appellant herein filed second appeal in S.A.No.1084/2015 before this Court. A learned single judge (Hon'ble Mr.Justice R.Subramanian) vide his decree and judgment dated 09.11.2020 dismissed the second appeal and directed the present appellant to vacate the premises on or before 30.04.2021. Thereafter, in the Execution proceedings the present appellant filed an application in E.A.No.7/2023 contending that the trial court did not have jurisdiction to decide the issue.

3. It is pertinent to point out that the executing court cannot go beyond the decree. As already observed the appellant herein filed second appeal in S.A.No.1084/2015 and the single judge of this Court has observed that there is no substantial question of law involved in the appeal and dismissed the appeal filed by the present appellant. The appellant herein was also directed to vacate the premises. In the circumstances, the orders passed by the executing court on 01.12.2023 is perfectly in order and I do not see any reason to interfere with the same.

4. In the result,

i. the Civil Miscellaneous Second Appeal is dismissed. No costs.



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Consequently, connected Civil Miscellaneous Petition is closed.

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- ii. the decree and judgment dated 01.12.2023 in E.A.No.7/2023 in E.P.No.123/2016 on the file of the Additional District Munsif Court, Coimbatore, upholding the orders dated 27.03.2024 in C.M.A.No.3/2024 on the file of the II Additional Subordinate Court, Coimbatore, is upheld.

03.10.2024

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

To

- 1.The Additional District Munsif Court, Coimbatore.
- 2.The II Additional Subordinate Court, Coimbatore.
- 3.The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

mtl

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