



C.R.P.[NPD].No.3249 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.3249 of 2024 &CMP.No.17364 of 2024

Sundara Rajan [died]

1. Esthar

2. Roslin

3. Sella

4. Joiceprisilla

5. Paul Joseph

. . . Petitioners

Versus

S.K.Bakthaachalam

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the order made in E.P.No.48 of 2016 in O.S.No.424 of 2007 on the file of the District Munsif Court at Chengalpet and allow the Civil Revision Petition.

For petitioners : Mr.S.Vijayakumar



C.R.P.[NPD].No.3249 of 2024

Respondent : Mr.R.Murali
ORDER

Challenge has been made against the Order of delivery passed by the Execution Court in the present Civil Revision Petition.

The suit has been filed for recovery of 84 cents. In the suit, the defendants took up a plea that he is in possession of 5 cents along with the hut as tenants and the suit came to be decreed and the first appellate Court has also confirmed the Order of the trial Court against which a second appeal in S.A,No.1382 of 2011 is pending. However, now the Order has been passed for delivery of the property in the execution proceedings. Challenging the same, present revision has been filed.

2. The Execution Court has Ordered delivery in terms of the decree passed in the suit in O.S.No.424 of 2007. A stand has been taken by the revision petitioners to the effect that they are in possession of only 5 cents along with hut and for that portion alone, the decree has been passed. Though



C.R.P.[NPD].No.3249 of 2024

the suit has been filed for recovery of 84 cents, when the revision petitioners themselves have pleaded before the trial Court that they are in possession of 5 cents and hut and they have failed to say that they are in possession of the entire property under a different right.

3. As the execution Court has already Ordered delivery to enforce the decree, this Court is of the view that this revision is nothing but futile exercise In the event the revision petitioners succeeds in the second appeal they always have a remedy of restitution by filing necessary application under section 144 of Code of Civil Procedure.

4. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions is closed.

25.11.2024

Index : Yes / No
Internet: Yes
Speaking/non speaking order
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C.R.P.[NPD].No.3249 of 2024

N. SATHISH KUMAR, J.

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C.R.P.[NPD].No.3249 of 2024

25.11.2024