



C.R.P.No.3813 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3813 of 2024
and C.M.P.No.20922 of 2024

Jayaraman

... Petitioner

Vs

Ramalingam (Died)

1. Lakshminarayanan
2. Virudhagiri
3. Sorubalakshmi
4. Deepalakshmi

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the fair and decretal order dated 03.04.2024 passed in E.A.No.163 of 2023 in E.A.No.233 of 2016 in E.P.No.172 of 2014 in O.S.No.133 of 2003 on the file of the Principal District Munsif Court, Vriddhachalam.

For Petitioner : Mr.T.Sivagnanasambandan



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ORDER

This Civil Revision Petition has been filed seeking to set aside the order passed by the Principal District Munsif Court, Vriddhachalam, in E.A.No.163 of 2023 in E.A.No.233 of 2016 in E.P.No.172 of 2014 in O.S.No.133 of 2003 on 03.04.2024.

2. The brief facts of the case is as follows :-

2.1. The petitioner is the defendant in the suit filed by the plaintiff, father of the respondents herein, in O.S.No.133 of 2003 on the file of the Ist Additional District Munsif Court, Vriddhachalam, seeking for a relief of declaration and mandatory injunction. The suit came to be decreed on 31.01.2012. Aggrieved over the same, the petitioner had filed a first appeal in A.S.No.11 of 2012 before the Principal Sub Court, Vriddhachalam. The appellate Court had dismissed the first appeal on 18.09.2012, against which, the petitioner had filed a second appeal and it is pending from 2016.

2.2. The respondents/decreed holders have filed an execution petition



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before the Principal District Munsif Court, Vriddhachalam, in E.P.No.172 of 2014 for execution of the decree dated 31.01.2012. The petitioner has also filed an application in E.A.233 of 2016 under Section 47 of CPC and it is still pending. While so, after seven years, the petitioner had filed an application in E.A.No.163 of 2023 under Order VI Rule 17 and Section 151 of CPC seeking to permit the petitioner to amend the petition in E.A.233 of 2016.

2.3. In E.A.No.163 of 2023, the petitioner had contended that the decree is inexecutable and to prove the said fact, it is necessary to produce additional documents and pleadings and thereby, the application has been filed. The respondents have also filed a counter contending that the evidence on both sides were completed and the execution petition is pending for arguments and at a belated stage, the petitioner has filed the petition only to delay the proceedings and if at all the petitioner is aggrieved by the judgment and decree of the Courts below, he should only move the second appeal before the High Court.

2.4. The petitioner had examined himself as PW1 and he had already marked Ex.P1 to Ex.P4 on 01.02.2018 and also produced four more witnesses on his side. The 2nd respondent, who was examined as RW1, was fully cross examined by petitioner's counsel and only at that stage of arguments, the application has



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been filed.

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2.5. The Executing Court, finding that the petitioner/judgment debtor has filed the application at the stage of argument only to procrastinate the proceedings, had dismissed the application vide order dated 03.04.2024. Against which, the present Civil Revision Petition has been filed.

3. Learned counsel for the petitioner submitted that the decree is an inexecutable decree, thereby, the petitioner has filed the petition to produce the additional documents and additional pleadings, whereas, the Executing Court failed to take into consideration the same and dismissed the application. He also submitted that against the judgment passed by the appellate Court in A.S.No.11 of 2012, the petitioner has also preferred a second appeal and it is pending before this Court. He further submitted that the petitioner has got a good case and thereby, he prayed to set aside the dismissal order dated 03.04.2024

4. Heard the learned counsel for appearing for the petitioner and perused the materials available on record.



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5. On perusal of records, it is seen that the suit filed by the plaintiff/father of the respondent was decreed on 31.01.2012 and thereafter, the first appeal filed by the petitioner herein was dismissed on 18.09.2012. Further, in the execution petition filed by the respondents in E.P.No.172 of 2014, the petitioner had filed an obstruction petition under Section 47 of CPC in E.A.No.233 of 2016. After the enquiry has been completed and at the state where the Execution petition was posted for arguments, the petitioner had filed an application in E.A.No.163 of 2023 seeking to produce the additional documents and pleadings.

6. Further, it has to be seen that though the petitioner has admitted that he has filed a second appeal before this Court in the year 2016, no attempt had been taken by the petitioner to number the same, even after 8 years of filing. The petitioner has also filed the present application for filing additional documents and pleadings at the stage when the witnesses have been examined and the case has been posted for arguments on both sides. Thereby, the conduct of the petitioner shows that the present petition has been filed only to procrastinate the execution proceedings. This Court is of the view that there is no merits or grounds in this



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revision petition.

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7. In view of the above, this Court does not find any illegality or infirmity in the order passed by the Principal District Munsif Court, Vriddhachalam. Accordingly, the Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is also closed. No costs.

20.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

The Principal District Munsif Court, Vriddhachalam.



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A.D.JAGADISH CHANDIRA, J.

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