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CRP.No.4194 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.4194 of 2024
and C.M.P.No.23277 of 2024

K.Nagarathinam

.. Petitioner

Versus

1.G.Revathy
2.P.Anjalakshmi
3.Ramesh
4.Kalpana
5.Lalitha
6.S.Prabhakaran
7.S.Mahendiran

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 24.09.2024 passed in E.P.No1191 of 2024 in I.A.No.750 of 2017 in O.S.No.3289 of 2012 by the learned XXV Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.Lavan

For Respondents : Mr.R.Baskar for R1

ORDER

Challenge has been made to the E.P.No.1191 of 2024 ordering the petitioner to deliver the vacant possession of 1/4th share allotted to the first respondent after removing the superstructure put up on the common



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passage.

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2. The first respondent has filed a suit for partition in O.S.No.3289 of 2012 on the file of learned IV Assistant City Civil Judge, Chennai and a preliminary decree has been passed allotting 1/4th share to the petitioner as well as the respondents. Challenge to the preliminary decree and the final decree already reached finality in S.A.No.496 of 2022 by this Court. Thereafter, I.A.No.750 of 2017 was filed for passing final decree. Final decree has been passed in tune with the preliminary decree and Advocate Commissioner's report is also filed, wherein, eastern 1/4th share is allotted to the revision petitioner and the western 1/4th share is allotted to the first respondent and other respondents are allotted in the middle portion of each 1/4th share. The first respondent has filed E.P.No.1191 of 2024 for delivery of 1/4th share as allotted in the final decree after removing superstructure in the common passage. Execution Petition has been ordered for delivery of vacant possession to the first respondent. Challenging the said order, the present revision.



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3. Counter has been filed by the revision petitioner before Executing Court stating that in the common passage, she has constructed a toilet and as the first respondent is diabetic and taking treatment, she require six months time to vacate so that superstructure can be demolished. The learned counsel for the revision petitioner submitted that if delivery is ordered as such, she will be put to inconvenience as she is using toilet in a common passage, therefore, six months time is required for vacating the premises.

4. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials placed on record.

5. Considering the fact that the counter has been filed in the month of August 2024, this Court is inclined to grant three months time to handover the vacant possession to the first respondent. The warrant of delivery shall be issued by the Trial Court after three months from today and it is made clear that delivery shall be effected in terms of the sketch already appended in the final decree.



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N.SATHISH KUMAR, J.,

dhk

6. Accordingly, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

07.11.2024

Index : Yes/No

Internet : Yes/No

To,

The XXV Assistant Judge,
XXV Assistant Court
City Civil Court, Chennai

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