



CRP No.844 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.R.P.No.844 of 2024 and
C.M.P.No.4182 of 2024

1. Syed Inaiyathulla,
2 Rafi Nawaz
both represented by their Power Agent
Mr.Fayaskhan

... Petitioners

Vs.

1. Arun Ramamoorthy
Rep.by its Power Agent
T.V.S.Ramamoorthy
2 E.Marakatharajammal

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, seeking to set aside the order, dated 18.8.2023 passed in EA.No.60 of 2018 in E.P.No.680 of 2016 in O.S.No.1564 of 2015 by the learned II Additional Sub Judge, Coimbatore.

For Petitioners

: Mr.S.S.Swaminathan



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ORDER

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This Civil Revision Petition is filed to set aside the order, dated 18.08.2023 passed in E.A.No.60 of 2018 in E.P.No.680 of 2016 in O.S.No.1564 of 2015 by the learned II Additional Sub Judge, Coimbatore.

2. The petitioners are decree holders in O.S.No.1564 of 2015 on the file of the II Additional Sub Court, Coimbatore which is filed against the defendants for specific performance. The said suit was decreed on 30.10.2015 and the petitioners got sale deed through the Court and filed E.P.No.680 of 2016 for execution. During the pendency of the same, the respondents filed an application in E.A.No.630 of 2018, objecting the execution of the decree on the ground that the suit has been filed against the person who died on 01.01.1999 and the decree has been passed on 30.10.2015.

3. Heard Mr.S.S.Swaminathan, learned counsel for the petitioner and perused the materials available on record.



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4. A perusal of the impugned orders shows that after considering the rival submission of the parties, the Executing Court allowed the application filed by the 1st respondent on the ground that the Judgment Debtor died on 01.01.1999 before filing the suit and the decree was passed on 30.10.2015. The decree passed against a dead person is not an executable one. It is also seen that the petitioners have issued legal notice to the 2nd Respondent / Judgment Debtor on 06.10.2015 seeking specific performance in respect of the suit properties. But the said legal notice has been returned unserved. Hence, according to the petitioners, they have no knowledge about the death of the Judgment Debtor.

5. There is no dispute about the fact that the 2nd Respondent died on 01.01.1999 and the Death Certificate of the Judgment Debtor has also been filed as Ex.P6. The Decree has been passed on 30.10.2015. So it is clear that on the date of filing the suit, the Judgment Debtor / 2nd Respondent viz., Marakatharajammal was not alive. Since the decree has been passed against a dead person, it is not an executable one. Hence, I do not find any



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merit in the Civil Revision petition and the same is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law.

No costs. Consequently, connected miscellaneous petition is closed.

12.03.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation : Yes / No
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To

The II Additional Sub Judge, Coimbatore.



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V.SIVAGNANAM, J.

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