



C.R.P(MD).No.451 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.451 of 2024

and

C.M.P(MD)No.2271 of 2024

Chinna Nachimuthu (died)

1.Thanganayagam

2.Nattudurai

3.Chinnadurai

4.Magudeeswari

... Petitioners / Respondent Nos. 9 to 13 /
Defendant Nos.9 to 13

Vs

1.N.Marimuthu

... 1st respondent / petitioner / plaintiff

Periya Nachimuthu

2.Deivamani

3.Palanichamy

4.Maragatham

5.Poomadevi

6.Murugesan



C.R.P(MD).No.451 of 2024

7.Kumaravel

8.Karthikeyan

... Respondents / Respondent Nos.1 to 8
Defendant Nos.1 to 8

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 20.12.2023 made in E.P.No.6 of 2023 in O.S.No.63 of 2013, on the file of the District Munsif Court, Palani, Dindigul District.

For Petitioner : Mr.I.Pinaygash

For Respondent : Mr.D.Venkatesh

ORDER

This Civil Revision Petition is filed to set aside the order dated 20.12.2023 made in E.P.No.6 of 2023 in O.S.No.63 of 2013, on the file of the District Munsif Court, Palani, Dindigul District, challenging the execution of the judgment and decree.

2. The original suit is filed seeking the relief of partition and separate possession filed by the first respondent / decree holder /



C.R.P(MD).No.451 of 2024

plaintiff. After passing the decree, final decree application is also filed in I.A.No.1 of 2020 by the first respondent herein. That was also passed on 28.07.2022. Against which now with a delay of 300 days, the respondents / defendants 9 to 13 have filed an appeal before the Principal Sub Court, Palani. Pending the above said process, now E.P.No.6 of 2023 has been taken by the first respondent / plaintiff and delivery has been ordered.

3. Per contra, learned counsel for the respondents would submit that the conduct of the petitioner does not entitle him to get any interim relief from this Court. Right from the beginning, he is indulging in suppression, even filing the caveat before this Court is suppressed. Not even notice was served to the learned counsel appearing for the first respondent herein, before the Appellate Court.

4. Whatever it may be, since I.A.No.1 of 2023 in A.S.No.unnumbered of 2023, is pending before the Appellate Court, this Court cannot go into the disputed issue with regard to the merits of passing the final decree as well as execution. Unless there is a stay order either by the Appellate Court or by any other Court, execution cannot be



C.R.P(MD).No.451 of 2024

stayed. Rightly, an execution order has been passed which cannot be found fault.

5. In the light of the development, there shall be a direction to the learned Principal Subordinate Judge, Palani, to dispose of the petition in I.A.No.1 of 2023 in A.S.No.unnumbered of 2023, filed by the petitioners herein within a period of one month from the date of receipt of a copy of this order. Depending upon the outcome of the petition, further steps may be taken by the parties.

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

29.02.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

Note: Issue order copy on **01.03.2024**

pnn

G.ILANGO VAN, J.

pnn



C.R.P(MD).No.451 of 2024

To

WEB COPY

- 1.The Principal Subordinate Judge, Palani.
- 2.The District Munsif Court, Palani, Dindigul District.
- 3.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
C.R.P(MD)No.451 of 2024
and
C.M.P(MD)No.2271 of 2024

29.02.2024