



C.R.P.(PD)(MD)No.749 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.03.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD)(MD)No.749 of 2020

V.Rayappan

... Petitioner

Vs.

C.Jebamony

... Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 02.12.2019 passed in E.P.No.80 of 2013 in A.R.C.No.15 of 2012 on the file of the Subordinate Judge, Padmanabhapuram.

For Petitioner : Ms.J.Anandhavalli

For Respondent : Mr.Levis Senthil Kumar

ORDER

This Civil Revision Petition is directed against an order dismissing E.P.No.80 of 2013, consequent upon the allowing of E.A.No.229 of 2014,



C.R.P.(PD)(MD)No.749 of 2020

by an order dated 02.12.2019 filed under Order 21 Rule 58 of C.P.C., filed by a third party, by name J.Jeyakumar. The said Jeyakumar claimed that the property, which is the subject matter of E.P.No.80 of 2013, belongs to him and the said claim of the said Jeyakumar was accepted by the learned Executing Court by passing an order dated 02.12.2019 in E.A.No.229 of 2014. As the scheduled properties in the Execution Petition is found to be the property belonging to the said Jeyakumar, the learned Executing Court dismissed the E.P.No.80 of 2013.

2. Today, it is brought to the notice of this Court that the petitioner herein has already filed an appeal in A.S.No.19 of 2020 on the file of the Court of Additional District Judge, Padmanabhapuram, Kanyakumari District against the said order in E.A.No.229/2014, dated 02.12.2019 and the same is pending for adjudication.

3. Aggrieved by the dismissal of the Execution Petition, consequent upon the allowing of E.A.No.229 of 2014, the present Civil Revision Petition is filed. The said E.P.No.80 of 2013 is dismissed as a consequence of allowing E.A.No.229 of 2014. As noted above, already an appeal has



C.R.P.(PD)(MD)No.749 of 2020

been filed and the same is pending against the order dated 02.12.2019 in E.A.No.229 of 2014. In case, if the petitioner herein succeeds in the said appeal, bearing number A.S.No.19 of 2020, it is always open for the petitioner to seek reopening of the E.P.No.80 of 2013.

4. In view of the same, this Court does not deem it necessary to keep this Civil Revision Petition is pending before this Court and the same is accordingly closed, granting liberty to the petitioner to file an appropriate application seeking reopening of Execution Petition, in the event of the petitioner herein succeeding in A.S.No.19 of 2020 filed against the order dated 02.12.2019 in E.A.No.229 of 2014 in E.P.No.80 of 2013. In case, if the petitioner files any petition, after he succeeds in the said appeal suit, the learned Executing Court shall reopen the Execution Petition and adjudicate the same in accordance with law. There shall be no order as to costs.

22.03.2024

NCC : Yes/No
Index : Yes/No

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3/4



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C.R.P.(PD)(MD)No.749 of 2020

MUMMINENI SUDHEER KUMAR, J.

vsm

To

- 1.The Subordinate Judge, Padmanabhapuram.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(PD)(MD)No.749 of 2020

22.03.2024