



C.R.P(MD)Nos.844, 845 & 1407 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)Nos.844, 845 & 1407 of 2019

and

C.M.P(MD)Nos.5051 & 5052 of 2019

C.R.P(MD)Nos.844 & 845 of 2019:

- 1.Sangapillai
- 2.Kandasamy
- 3.Sarasu
- 4.Muthukanu @ Muthammal
- 5.Backiam
- 6.Sundaram @ Sundarammal
- 7.Nachammal@Rajammal

... Petitioners/Respondents/
Respondents/Defendants

Vs.

Mariyaaye Ammal (Died)

Kaliyammal

... Respondent/Petitioner/
Petitioner/Plaintiff

Prayer in C.R.P(MD)No.844 of 2019: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the order,



C.R.P(MD)Nos.844, 845 & 1407 of 2019

dated 15.03.2019 passed in E.A.No.7 of 2019 in E.P.No.11 of 2018 in O.S.No.250 of 2000 by District Munsif cum Judicial Magistrate Court, Vedasandhur with costs.

Prayer in C.R.P(MD)No.845 of 2019: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the order, dated 15.03.2019 passed in E.A.No.8 of 2019 in E.P.No.11 of 2018 in O.S.No.250 of 2000 by District Munsif cum Judicial Magistrate Court, Vedasandhur with costs.

C.R.P(MD)No.1407 of 2019:

1.Sangapillai

2.Kandasamy

3.Sarasu

4.Muthukanu

5.Backiam

6.Sundaram @ Sundarammal

7.Nachammal@Rajammal

... Petitioners/Respondents/
Defendants

Vs.

Mariyaaye Ammal (Died)

Kaliyammal

... Respondent/Petitioner/
LR of Plaintiff



C.R.P(MD)Nos.844, 845 & 1407 of 2019

Prayer: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the order, dated 103.04.2019 passed in E.P.No.11 of 2018 in O.S.No.250 of 2000 by District Munsif cum Judicial Magistrate Court, Veda sandhur with costs.

For Petitioner : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates
(In all cases)

For Respondent : No Appearance
(In all cases)

COMMON ORDER

The judgment debtors in O.S.No.250 of 2000 are the revision petitioners herein.

2. The said suit was filed for the relief of partition and separate possession. A preliminary decree came to be passed on 06.12.2001. The decree holder had filed I.A.No.251 of 2005 for passing of final decree. A final decree came to be passed on 29.11.2017. Based upon the said final decree, the plaintiff had filed E.P.No.11 of 2018. An order of delivery was passed on 03.04.2019. Since the property in dispute was kept under lock and key and there was resistance from the judgment debtors, the decree holder had filed E.A.No.7 of 2019 to break open the property and



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E.A.No.8 was filed for police protection. Both these applications came to be allowed by the Executing Court. Challenging the same, the present revision petitions have been filed by the judgment debtors.

3. The learned counsel appearing for the revision petitioners had contended that the suit schedule property only refers to a vacant site and therefore, the question of taking delivery of a building in execution proceedings arising out of final decree is not maintainable. The Executing Court cannot order break open of the lock in a building and grant police protection for the same. Hence, he had prayed for allowing the revision petitions.

4. A perusal of the plaint schedule, preliminary decree and the final decree reveal that the decree has been passed with regard to the vacant site. However, if really the constructions have been put up prior to the suit or before passing of the preliminary decree, the defendants would have brought the same to the notice of the Court. In case if the constructions are put up pending suit, the trial Court is not barred from passing a decree for recovery of possession even with regard to a building. That apart, the judgment debtors have not specifically



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mentioned the date on which such a constructions have been put up by them. In such circumstances, I do not find any merits in the revision petitions.

5. Hence, all the Civil Revision Petitions stand dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

04.04.2024

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

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To

1.The District Munsif cum Judicial Magistrate Court,
Vedasandhur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
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04.04.2024