



C.R.P.(MD)No.1291 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.1291 of 2023

and

CMP (MD) No. 6362 of 2023

1.Muniyandi

Kannammal (died)

2.Parameswari

: Petitioners/Respondents/
Defendants

Vs.

Devadas

: Respondent/Petitioner/
Plaintiff

PRAYER:-Civil Revision Petition has been filed under section 115 of the Civil Procedure Code, to set aside the order, dated 10/11/2022 made in EP No.18 of 2019 in OS No.25 of 2021 on the file of the Sub Court, Ramanathapuram and to pass such other further order or orders.

For Petitioners : Mr.R.G.Sankar Ganesh

For Respondent : Mr.C.Vakeeswaran

O R D E R

This civil revision petition has been filed seeking an order to set aside the order, dated 10/11/2022 passed in EP No.18 of 2019 in OS No.25 of 2021 by the Sub Court, Ramanathapuram.



2. The facts in brief:-

A suit in OS No.25 of 2011 was filed by the respondent herein as plaintiff seeking the relief of declaration and consequential recovery of possession. The suit was decreed in favour of the respondent/plaintiff, by judgement and decree, dated 15/06/2011. To execute the decree, EP No.18 of 2019 was filed by the respondent herein. Pending the EP proceedings, the impugned order is passed by the Execution Court allowing the execution petition directing delivery of possession.

3. Challenging the same, this civil revision petition is preferred by the petitioners stating that in the main suit, they engaged an Advocate to defend their case, but he failed to defend the matter properly. So, they were set *ex-parte*. To set aside the *ex-parte* decree and judgment, they filed IA No.722 of 2022 before the trial court. In spite of the above said fact, delivery is ordered by the trial court.

4. Heard both sides.

5. I find absolutely no merit in this matter. When there is no stay order in IA No.722 of 2022, the delivery cannot be stalled. The petitioners ought to have



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approached the trial court, expecting the hearing in IA No.722 of 2022. Without resorting to such relief, they straightaway filed this petition challenging the execution order, which will not lie.

6.But however, considering the fact that the trial court as well as the Execution court are one and the same, there shall be a direction to the trial court to expedite the enquiry process in IA No.722 of 2022 and complete the same within a period of one month from the date of receipt of a copy of this order. Depending upon the outcome of the proceedings, further process may be taken in the execution petition.

7.With the above said direction, this civil revision petition stands **disposed of**. No costs. Consequently, connected Miscellaneous Petition is closed.

14/02/2024

Index:Yes/No
Internet:Yes/No
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To,

1.The Sub Court,
Ramanathapuram.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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