



C.R.P.(MD)No.2067 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.2067 of 2023

and C.M.P.(MD).Nos.10322 and 14722 of 2023

1.Seethalakshmi

2.Surulivasan

... Petitioners/Respondents/Defendants

Vs.

Manickam

... Respondent/Petitioner/Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 30.01.2023 passed by the District Munsif Court, Sivagangai, in E.P.No. 21 of 2019 in O.S.No.150 of 2016.

For Petitioner : Mr.C.Suresh Kannan

For Respondent : Mr.V.Georgeraja

ORDER

This petition has been filed to set aside the fair and decreetal order dated 30.01.2023 passed by the District Munsif Court, Sivagangai, in E.P.No.21 of 2019 in O.S.No.150 of 2016.



C.R.P.(MD)No.2067 of 2023

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2.The facts in brief:

Suit in O.S.No.150 of 2016 was filed by the decree holder namely the respondent herein seeking the relief of declaration and recovery of possession. After full trial, the trial Court decreed the suit as prayed for with cost, directing the revision petitioner herein to hand over the vacant possession within a period of three months. Against which, the defendant filed appeal in A.S.No.1 of 2021, before the Sub Court, Sivagangai, which is stated to be pending. In the meantime, the present execution petition was filed by the decree holder to execute the decree. That was resisted by the revision petitioner stating that the appeal in A.S.No.1 of 2021 is pending before the Sub Court, Sivagangai; So the decree cannot be executed till the disposal of the appeal. That plea was rejected by the Execution Court and delivery was ordered, by the order, dated 30.01.2023. Against which, this revision is preferred.

3.This Court is not in a position to understand the grievance expressed by the revision petitioner. He ought to have filed a stay application in A.S.No.1 of 2021 before the Sub Court, Sivagangai.



C.R.P.(MD)No.2067 of 2023

Without resorting such remedy, he resisted the Execution Petition unsuccessfully. Not satisfied with that he preferred this revision, which is not at all maintainable.

4.The particulars of the stage of A.S.No.1 of 2021 is also not available. In the absence of any stay order by the appellate Court, there is no bar for the execution Court to proceed with the execution process.

5.Moreover, till the pendency of this revision, it appears that it was submitted that out of the Court, compromise talk is going on between the parties. But, till the disposal of this revision no compromise was arrived between the parties. So, I find absolutely, no reason to entertain the revision. The revision petitioner can workout his remedy only before the appellate Court.

6.With the above said observation, this civil revision petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

18.12.2024



C.R.P.(MD)No.2067 of 2023

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

- 1.The District Munsif, Sivagangai.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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C.R.P.(MD)No.2067 of 2023

G.ILANGO VAN,J.

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C.R.P.(MD)No.2067 of 2023

18.12.2024