



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.09.2024

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No. 2206 of 2024

T. John Kennedy

... Petitioner

Vs.

Kaleeshwaran (Died)

1. Ramasamy

2. Gnanappoo

3. Rajalingam

4. Viji Edition

5. Ramaraj

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Sub Court, Srivilliputtur to dispose the E.A.No.24 of 2009 in E.P.No.5 of 2006 in O.S.No.102 of 2002 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.K.Sudalaiyandi

ORDER

This Civil Revision Petition is filed seeking direction to the Sub Court, Srivilliputtur to dispose the E.A.No.24 of 2009 in E.P.No.5 of 2006 in O.S.No.102 of 2002 within a stipulated time that may be fixed by this Court.



2. Since the prayer is to dispose the pending E.A. within stipulated time, the respondents would not be prejudiced, hence the notice to the respondents is dispensed with.

3. The brief facts of the case is that one Kaleeshwaran is the husband of the 2nd respondent and father of the respondents 3 to 5. The said Kaleeshwaran had filed money suit in O.S.No.102 of 2002, on the file of Sub Court, Srivilliputhur against the 1st respondent Ramasamy and exparte decree was passed on 14.07.2003. Thereafter the decree holder Kaleeshwaran had preferred execution petition in E.P.No.5 of 2006 to sell the property belongs to the judgment debtor Ramaswamy. Initially the said Ramasamy had contested the execution petition through his counsel, but subsequently went exparte. Hence the property belonging to the judgment debtor Ramasamy was brought for auction sale on 29.10.2007. In the said auction sale, the revision petitioner had purchased the property for a sum of ₹7,57,500. After depositing the said amount sale certificate was issued in favour of the revision petitioner on 02.01.2008 and in order to take delivery of possession the revision petitioner had filed E.A.No.24 of 2009 in E.P.No.5 of 2006 under Order 29, Rule 95 and 96. An execution application in E.A.No.328 of 2008 was filed by the judgment debtor and the same was dismissed vide order 22.04.2015 and he had civil revision petition in C.R.P.(MD)No.144 2015 before the High



Court and the same was dismissed on 28.06.2018. In the meanwhile, the Special Leave Petition filed by the judgment debtor in SLP No.21762 of 2018 was also dismissed. Thereafter in order to drag on the delivery application, the 1st respondent judgment debtor had preferred another E.A.No.1 of 2021 in E.P.No.5 of 2006 questioning the very same proceedings. Hence the revision petitioner had preferred CRP(MD)No.340 of 2022 to struck down the above said E.A.No.1 of 2021 and the same was allowed on 31.07.2023 and the E.A.No.1 of 2021 was struck down on the ground of Res-Judicata. Even thereafter in order to drag on the proceedings the 1st respondent is preferring frivolous applications before the execution court. The 1st respondent had preferred an application in unnumbered E.A.No.____ of 2024 in E.A.No.24 of 2009 and the same was dismissed through order dated 06.04.2024 and against the same the 1st respondent had preferred C.R.P.(MD)No.1290 of 2024 and the same is still pending without any interim order. In view of the same the judgment debtor with an intention to further drag on the proceeding is taking continuous adjournment. The EP Court without considering the long pendency of the delivery application is granting adjournment frequently without passing any orders. Finally, the execution petition was posted on 05.09.2024 for enquiry. Hence, the present CRP is filed to fix time limit to complete the proceedings.



4. further it is stated that the suit in O.S.No.102 of 2002 was filed in the year 2002 and the suit was allowed. Against the same, the 1st defendant had preferred First Appeal and the same was dismissed. Aggrieved over the same, the 1st defendant had preferred Second Appeal and the same was also dismissed. Thereafter the defendants had preferred SLP and the same was also dismissed on 26.02.2024. In spite of the Order of Hon'ble Supreme Court, the EP Court has not taken the application within time and the Court is unnecessarily prolonging the delivery application. Therefore, this Court is inclined to allow the present Civil Revision Petition.

5. Accordingly, this Civil Revision Petition is allowed. The EP Court below is directed to complete the proceedings in E.A.No.24 of 2009 in E.P.No.5 of 2006 in O.S.No.102 of 2002, within a period of Six Months, from the date of receipt of a copy of this Order. No Costs.

13.09.2024

Index : Yes / No
Internet : Yes
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To

The Sub Court,
Srivilliputtur.





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6

S.SRIMATHY, J

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Order made in
C.R.P(MD)No.2206 of 2024

13.09.2024