



C.R.P(MD)No.2799 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

C.R.P(MD)No.2799 of 2023

Chinnasamy ...Petitioner/Plaintiff/Decree Holder

Vs.

M.S.Rajagopal ...Respondent/Defendant/Judgment Debtor

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the court below to dispose of the execution petition within a time frame in E.P.No.109 of 2007 in O.S.No.249 of 2000, on the file of the Sub Court, Tiruchirappalli.

For Petitioner : M/s.B.Deepa
for Mr.C.Prithivraj

ORDER

This Civil Revision Petition is filed seeking a direction to the Sub Court, Tiruchirappalli, to dispose of E.P.No.109 of 2007 in O.S.No.249 of 2000 within a time frame.



C.R.P(MD)No.2799 of 2023

WEB COPY

2. Heard the learned counsel appearing for the petitioner.

3. The grievance of the petitioner is that even though the suit was filed in the year 2000 and the decree was passed on 16.08.2005 itself, Execution Petition is pending without any progress.

4. On 19.01.2024, a report was called for the Subordinate Court, Tiruchirappalli. A detailed report is submitted by the I Additional Sub Judge, Trichy, wherein several particulars are mentioned, which are extracted herein under:

“I humbly submit that E.P.No.109/2007 on the file of the 1st Additional Sub Court, Trichy was filed for sale of immovable property of judgment debtor to realize the decree amount in O.S.No.249 of 2000. After due notice to judgment debtor, auction sale was ordered to realize the decree amount. In the court auction, the immovable property of judgment debtor was sold in favour of auction purchaser Thiru.A.Chinnary for Rs.2,61,000/-. The said



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C.R.P(MD)No.2799 of 2023

auction purchaser Thiru A.Chinnasamy deposited the entire purchase money in due time. Accordingly, sale certificate was issued to the said Chinnsamy and the E.P.No.109 of 2007 was closed on 30.03.2010. As on date, the said E.P.No.109 of 2007 is not alive.

2. On the year 2010, the said Chinnasamy i.e.. the auction purchaser of immovable property in E.P. No. 109/2007 filed an application under order 21 rule 34, 94, 95 of C.P.C for delivery of possession of said immovable property and the same was taken on file as EA No. 229/2010. On 12.11.2010, the said E.A. No. 229/2010 was allowed and delivery of possession through the process of court was ordered. Later, two obstruction applications were filed and disposed off. By then, several third parties filed applications under order 21 rule 58 r/w rule 97 C.P.C and the same were taken on file as EA No. 1/2020, 3/2020, 5/2020, 7/2020, 9/2020, 11/2020, 13/2020, 15/2020, 17/2020, 19/2020, 21/2020, 23/2020, 2/2021, 3/2021, 4/2021 and 5/2021. Further, some of the said third parties also filed applications under Section 151 of C.P.C to stay the further proceeding s in the execution and the same were taken on file as E.A.NO.2/2020, 4/2020, 6/2020, 8/2020, 10/2020, 12/2020, 14/2020,



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C.R.P(MD)No.2799 of 2023

16/2020, 18/2020, 20/2020, 22/2020 and 24/2020. As of now, the said applications ie. E.A. No.1/2020 to E.A. 24/2020 and E.A.NO.2/2021 to ?? No.5/2021 are pending for completion of service to 2nd respondent.

3. The auction purchaser i.e., Chinnasamy remained exparte in the said E.A No.2 of 2021 to E. A No.5/2021 and filed E. A No.1/2023 to E.A.No.4/2023 to set aside the exparte order passed in E.A.NO.2/2021 to E.A No. 5/2021 As of now, the said E.A. No.1 / 2023 to E.A No. 4/2023 are pending for enquiry. That apart, the said Chinnasamy also filed an application under Order 21 rule 97 and 98 of C.P.C for removal of obstructions and superstructures erected in the said property. The said application was taken on file as E.A No.1/2021 and the same is now pending for effecting substituted service to respondents 1, 24, 31, 33, 38, 41, 42, 49 and 53. At present, in the said E.A NO.229/2010 for delivery of possession, the said E. A No. 1/2020 to 24/2020, E.A No. 2/2021 to E.A No.5/2021, E.A No.1/2023 to E.A No. 4/2023 and E.A No.1/2021 are pending for disposal”.



C.R.P(MD)No.2799 of 2023

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4. Even though it has been stated that Execution Petition is still pending, in view of the abovesaid development, let all the Execution Applications be disposed of within a period of three months. The petitioner must take steps to serve notice upon the respondent.

5. With the above directions, this Civil Revision Petition is disposed of. No costs.

09.02.2024

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

To

1.The Sub Court, Tiruchirappalli.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.2799 of 2023

G. ILANGO VAN, J.

CM

C.R.P(MD)No.2799 of 2023

09.02.2024