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**N. Arif Vs. S. Muthaiah and Others**

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**SooperKanoon Citation** : sooperkanoon.com/1189474

**Court** : Chennai Madurai

**Decided On :** Jul-29-2016

**Judge** : K. Kalyanasundaram

**Appeal No.** : C.R.P. (PD)(MD)No. 1480 of 2016

**Appellant** : N. Arif

**Respondent** : S. Muthaiah and Others

**Judgement** :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal Subordinate Judge, Madurai to expedite the proceedings in I.A.No.580 of 2015 in O.S.No.363 of 2011 within a stipulated time that may be fixed by this Court.)

1. This revision is filed seeking for a direction to the learned Principal Sub Judge, Madurai, to dispose of the application in I.A.No.580 of 2015 in O.S.No.363 of 2011 with in the stipulated time.

2. Heard the learned counsel for the petitioner and perused the materials available on records.

3. The case of the petitioner is that the petitioner already filed a suit in O.S.No.120 of 1986 before the I Additional District Court, Madurai for specific performance, based on an agreement of sale dated 23.08.1983 and the said suit was decreed

on 03.04.1989. The appeal filed by the defendant in the suit in A.S.No.1086 of 1989 was dismissed confirming the Judgment and decree of the trial Court.

4. The learned counsel for the petitioner would submit that based on the decree, the petitioner filed E.P.No.318 of 2006 for execution of the sale deed. The I Additional Sub Judge, Madurai, executed the sale deed in favour of the petitioner. Subsequently, the petitioner filed E.A.No.72 of 2010 in E.P.No.318 of 2006 for delivery of the possession.

5. The learned counsel for the petitioner further would submit that the respondents filed O.S.No.363 of 2011 before the Principal Sub Judge, Madurai for declaration and permanent injunction and the said suit was decreed behind this back on 11.06.2012. Thereafter, the petitioner filed an application in I.A.No.580 of 2015 in O.S.No.363 of 2011 to set aside the said decree. Even though the said application was numbered in the year 2015, it has been adjourned for the past one more year without any progress. Pending the petition, the petitioner is not able to take delivery of possession of the suit property.

6. Considering the above submission and without going into the merits of the case, the learned Principal Sub Judge, Madurai, is directed to dispose of the application in I.A.No.580 of 2015 in O.S.No.363 of 2011, on merits and in accordance with law, as expeditiously as possible preferrable within a period of two months, from the date of receipt of a copy of this order.

7. With the above direction, this civil revision petition is allowed. No costs.

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