

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2015

CORAM

The Hon'ble Mr.Justice M.Duraiswamy

C.R.P (NPD) Nos.1457 and 1458 of 2014

P.N.Peruvazhuthi

... Revision Petitioner in both C.R.Ps

Vs.

R.Saravanan

... Respondent in both C.R.Ps

Prayer in ***C.R.P (NPD) .No.1457 of 2014** : Petition filed under Article 227 of the Constitution of India against the order, dated 04.03.2014, passed in E.P.No.94 of 2011, in O.S.No.163 of 2004, on the file of the District Munsif Court, Polur, Thiruvannamalai District.

Prayer in ***C.R.P (NPD) .No.1458 of 2014** : Petition filed under Article 227 of the Constitution of India against the order, dated 04.03.2014, passed in E.P.No.95 of 2011 in O.S.No.163 of 2004, on the file of the District Munsif Court, Polur, Thiruvannamalai District.

For Revision Petitioner : Mr.S.Udayakumar for
Mr.G.A.Thiyagarajan

For Respondent : M/s.Pass Associates

C O M M O N O R D E R

Challenging the common order, dated 04.03.2014, passed by the learned District Munsif, Polur, Thiruvannamalai District, in E.P.Nos.94 and 95 of 2011, in O.S.No.163 of 2004, the plaintiff has filed these Civil Revision Petitions.

2. The revision petitioner/plaintiff has filed the Suit in O.S.No.163 of 2004, for recovery of money. The said Suit was decreed by the Trial Court. Pursuant to the decree passed by the Trial Court, the decree holder/revision petitioner filed two Execution Petitions, viz., E.P.Nos.94 and 95 of 2011, one to arrest the judgment-debtor/respondent and another Petition to execute the

decree by attaching the immovable properties. The Executing Court, by a common order, dated 04.03.2014, dismissed both Execution Petitions finding that the decree-holder cannot maintain two Execution Petitions simultaneously.

3. The learned counsel appearing for the revision petitioner has submitted that the order of the Executing Court is liable to be set aside solely on the ground that the Executing Court ought not to have dismissed both Petitions together, and it could have dismissed one Petition and retained another Petition. Further, the learned counsel submitted that, by reason of such dismissal, the decree-holder, viz., the revision petitioner herein is not in a position to realise the fruits of the decree passed in O.S.No.163 of 2004.

4. Heard both sides.

5. I am in complete agreement with the submissions made by the learned counsel appearing for the revision petitioner. Hence, the Civil Revision Petition No.1457 of 2014 is allowed, the order passed by the learned District Munsif, Thiruvannamalai, in E.P.No.94 of 2011 is set aside and the said Execution Petition is restored ***to** file. The Executing Court is directed to dispose of E.P.No.94 of 2011, on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. In consequence of the order passed in the Civil Revision Petition No.1457 of 2014, no further orders are required to be passed in Civil Revision Petition No.1458 of 2014. Consequently, C.R.P.No.1458 of 2014 is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

Dated : 21.07.2015

***Corrections carried over as per order of this Court dated 27.11.2015 and made in CRP(NPD)Nos.1457 & 1458 of 2014**

Sd/- Assistant Registrar(CO)

Dated : 12.01.2016

//True Copy//

Sub Assistant Registrar

sd

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To

The District Munsif Court,
Polur,
Thiruvannamalai District.

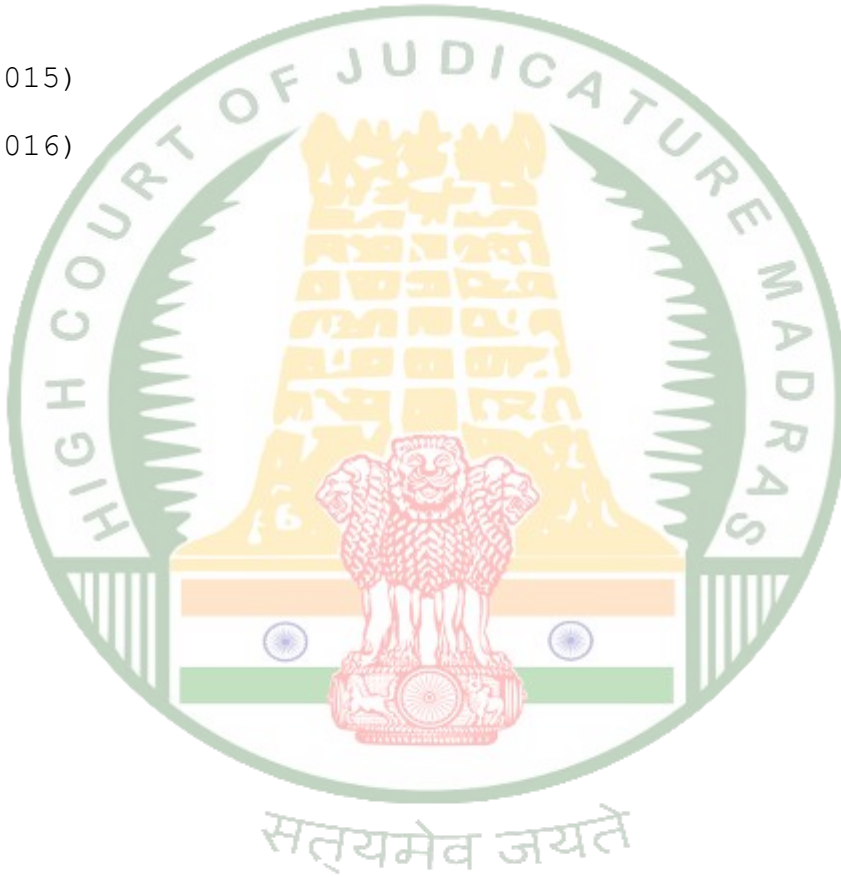
To be substituted to the Order
already despatched on 04.08.2015

+1cc to M/s.Pass Associates, Advocate, S.R.No.34640
+1cc to Mr.G.A.Thiyagarajan, Advocate, S.R.No.64504

C.R.P(NPD)Nos.1457 and 1458 of 2014

MG (CO)
CA(22/07/2015)

CA(12.01.2016)



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