

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2016

CORAM :

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Civil Revision Petition (NPD) No.3449 of 2013

R.Saraswathi

.. Petitioner

Vs.

1.T.G.Pongiannan
2.K.M.Natarajan
3.N.Easwari

.. Respondents

Prayer: Revision filed under Article 227 of Constitution of India, to dispose of the claim petition in E.A.No.53 of 2012 in E.P.No.41 of 2009 in O.S.No.246 of 2000, on the file of the Sub-Court, Bhavani, Erode.

For Petitioner : M/s.Esai Rani

For Respondents : No Appearance

ORDER

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The Revision petitioner is a third party to the execution proceeding in E.P.No.41 of 2009 on the file of the Sub-Court, Bhavani.

2. According to the revision petitioner, the 1st respondent herein agreed to purchase the property of the respondents 2 and 3 herein for a sum of Rs.1,25,000/- and on 30.08.1999 an advance amount of 1,00,000/- was paid to the respondents 2 and 3 herein by the 1st respondent. Since the respondents 2 and 3 herein failed to execute the sale deed on receipt of balance sale consideration of Rs.25,000/-, 1st respondent herein filed a suit for specific performance in O.S.No.246 of 2000 before the learned Sub-Court, Bhavani and the same was decreed on 30.11.2007. The said decree was confirmed by this Hon'ble Court in S.A.No.1175 of 2008.

3. Thereafter, the 1st respondent herein filed execution petition in E.P.No.41 of 2009 before the learned Sub-Court, Bavani to get the sale deed executed in his favour.

4. When the facts are being so, the petitioner herein claims that he is having half share in the suit property. According to him, though the suit property stands in the name of the 3rd respondent herein, the petitioner herein and the 2nd respondent K.M.Natarajan who are the sons of late Muthu gounder having half share each in the suit Property. The revision petitioner has no talking terms with the respondents 2

and 3 herein for the past 40 years. Recently in the month of May 2012 the petitioner herein came to know about the above said proceedings and immediately thereafter he filed Claim Petition in E.A.No.53 of 2012 under Order 21, Rule 58 CPC to dismiss the above execution petition on the grounds that he is also having half share in the petition mentioned property.

5.It is contended by the Learned Counsel for the revision petitioner that the Learned Judge without deciding the claim petition, proceeding with the E.P. Therefore the petitioner has come up with the civil revision petition seeking for a direction to the Learned Subordinate Judge, Bhavani to dispose of the claim petition in E.A.No.53 of 2012 in E.P.No.41 of 2009.

6.I heard M/s.Esai Rani, learned counsel for the revision petitioner and there is no representation for the respondents 1 to 3.

7.The grievance of the revision petitioner is that he has filed claim petition in E.A.No.53 of 2012 in E.P.No.41 of 2009 and the same is pending for a quiet long time. Hence the petitioner has filed the above CRP to dispose of the above said claim petition within a period

of one month. As the relief sought for by the revision petitioner in this civil revision petition is very limited, this Court without expressing any opinion on the merits of the case inclined to issue the following direction to the Learned Sub-ordinate Judge, Bhavani to dispose of the claim petition.

8.In the result, this Civil Revision Petition is allowed and the Learned Sub-ordinate Judge, Bhavani, Erode, is directed to dispose the claim petition filed by the revision petitioner in E.A.No.53 of 2012 in E.P.No.41 of 2009 in O.S.No.246 of 2000 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, if already not decided. No costs.

19.12.2016

Note:Issue order copy on 18.04.2018

vs

Index : Yes/No

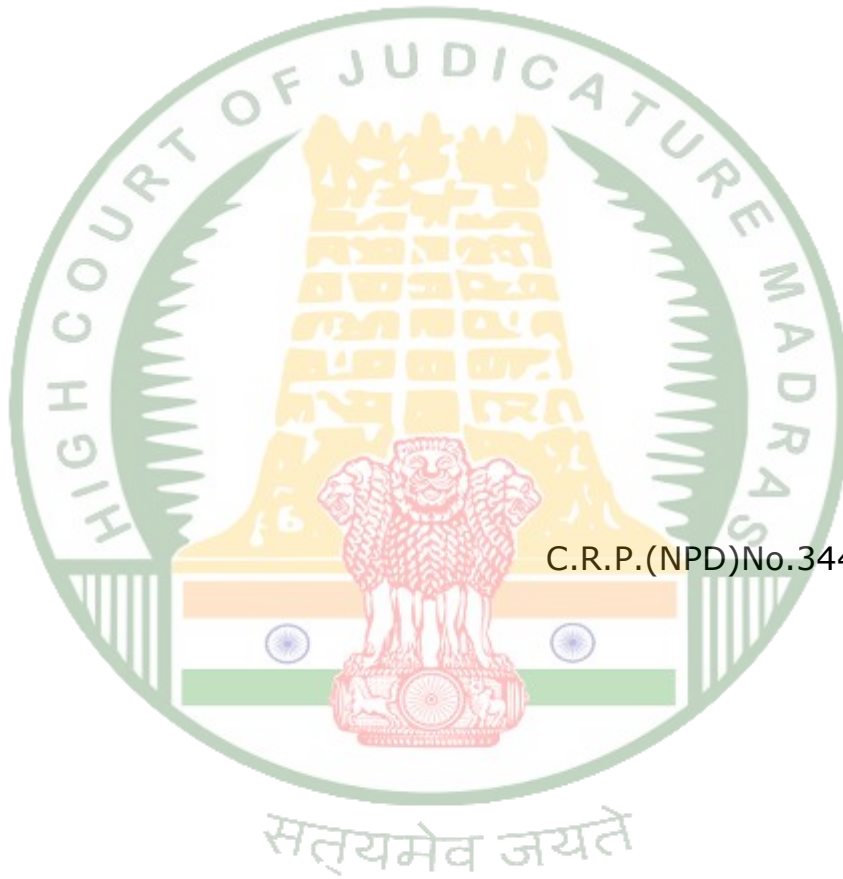
Internet : Yes/No

To

The Subordinate Judge,
Bhavani, Erode.

M.V.MURALIDARAN,J.

VS



C.R.P.(NPD)No.3449 of 2013

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