

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.07.2017

C O R A M

The Honourable **Mr.JUSTICE M. GOVINDARAJ**

CRP.(NPD) No.2020 of 2017 and
CMP.No.9794 of 2017

R.Nagalingam

..Petitioner

Vs

- 1.Malarkodi
- 2.Appu
- 3.Ammu
- 4.Jhansi

all are residing at No.338,
6th Cross Street,
C.Kalyanapuram,
Vyasarpadi,
Chennai 600 039.

..Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India as against the docket order made in E.P.No.1446 of 2017 in O.S.No.3577 of 2012 dated 06.06.2017 on the file of 1st Assistant Judge in the City Civil Court of Chennai.

For Petitioner : Mr.R.Marudhachalamurthy

ORDER

This Civil Revision Petition has been filed against the docket order made in E.P.No.1446 of 2017, in O.S.No.3577 of 2012 dated 06.06.2017 on the file I Assistant Judge, City Civil Court, Chennai.

2.The Petitioner/Decree Holder filed a suit for a direction to the defendants to vacate and handover the vacant possession of the suit property to the Plaintiff. The said suit was decreed on 23.02.2017. Thereafter, the petitioner has filed the Execution Petition, in E.P.No.1446 of 2017, within a period of three months from the date of receipt of a copy of Decree and Judgment. As per the provisions of Order 21 Rule 22 of Civil Procedure Code, no notice may be given to the Judgment debtor. The petitioner has also filed a petition to dispense with the issuance of notice to the judgment debtors. In spite of the same, the Execution Court has ordered notice to the respondents/Judgment Debtors. Aggrieved against the same, the present Civil Revision Petition is filed.

3. Heard both sides and perused the materials on record.

4. Record of proceedings would go to show that this Court, on

28.06.2017, has directed the Registry to call for the records pertaining to E.P.No.1446 of 2017 in O.S.No.3577 of 2012, from the Court below. Accordingly, the Registry has produced the records before this Court and on perusal of the same, it is found that notice has been ordered to the Judgment debtors.

5. The learned counsel for the petitioner would submit that the notice ordered by the Execution Court is unnecessary as found by the decision of this Court in ***Nachayee Ammal and others Vs. Pichaimuthu*** reported in ***1992 2 MLJ 498*** which was followed in a case in ***Hazrath Imam Hussain Wakf Versus Nayaama Adib*** reported in ***2006 4 M.L.J. 190***. As per the said decisions, there is no necessity for the Execution Court to issue notice to the Judgment debtor, if the execution petition is filed within two years after the date of decree. This Court in the said decisions, had directed the Execution Court to pass appropriate orders directing the delivery of possession to the petitioner without ordering notice to the respondent Judgment-debtor applying Order 21, Rule 22 and Rule 35 of Civil Procedure Code.

6. In view of the same, as the present case is also similar in nature, this Court directs the Execution Court to issue appropriate orders, directing the delivery of possession to the petitioner, without ordering notice to the respondents/Judgment debtors.

7. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

26.07.2017

Index: yes/No
Speaking/Non-Speaking

arr/gmd

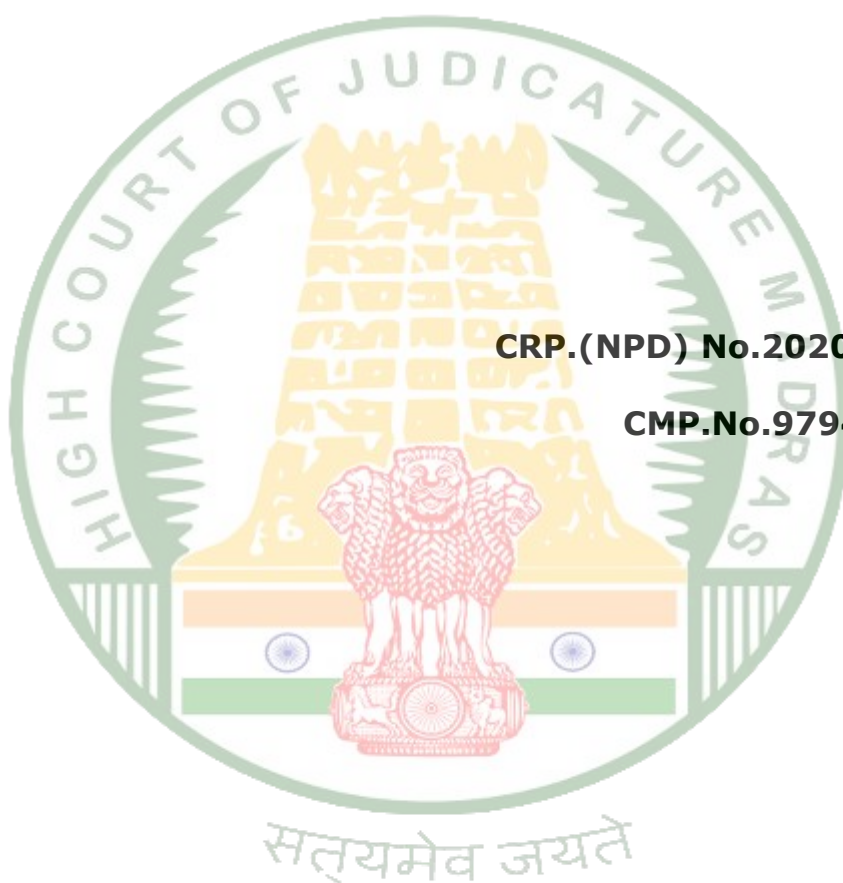
Note: Registry is directed to send the original Judgment and decree to the Execution Court.

To

The I Assistant Judge in the City Civil Court, Chennai.

WEB COPY

M. GOVINDARAJ,J



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