

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE M.GOVINDARAJ

C.R.P.(NPD)No.2355 of 2017
and
C.M.P.No.11107 of 2017

1.Meenambal
2.Rajendran

.. Petitioners

Vs.

Karthick

.. Respondent

Civil Revision Petition filed under Section 115 of CPC to set aside the fair and decreetal order dated 22.06.2017 on the file of learned Subordinate Court, Mannargudi in E.A.No.177 of 2016 in E.P.No.51 of 2013 in O.S.No.55 of 2007.

For Petitioners : M/s.V.Vaithiyalingam and
K.T.S.Sivakumar

For Respondent : ---

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 22.06.2017 on the file of learned Subordinate Court, at Mannargudi in E.A.No.177 of 2016 in

E.P.No.51 of 2013 in O.S.No.55 of 2007.

2. The first revision petitioner is the paternal aunt of the respondent. There is a suit filed by the respondent for declaration of title. The lower court have decided against the petitioners/defendants and resulted in filing of the second appeal before this Court in S.A.No.323 of 2015. This Court considering the close relationship between the parties being aunt and nephew by its order dated 27.09.2016, referred the matter to the Mediation Centre at District Court, Nagapattinam for mediation.

3. Based on the referral made by the High Court, the petitioner has approached the Sub Court to cancel the order of delivery of possession. Eventhough the Execution Court has considered the order passed by the High Court referring the matter for mediation, has passed the impugned order dated 22.06.2017 and thereby declined to stay the execution.

4. The petitioners have preferred the above civil revision petition against the order passed by the Execution Court declining to grant stay of the execution proceedings.

5. The learned counsel appearing for the petitioners would submit that the petitioners have not received any information from the Mediation Centre. They have been anxiously waiting for the information from the Mediation Centre, for reaching amicable resolution. The second appeal is also pending.

6. On considering the facts and circumstances of the case, I do not find any infirmity in the order passed by the Execution Court. It is well settled that when the matter is pending in appeal, the parties have to obtain stay of the proceeding from the appellate court and the Execution Court cannot grant any stay.

7. However, considering the case on hand, after the High Court has referred the matter for mediation before the Nagapattinam District Court, the parties should have participated in the mediation process for reaching an amicable settlement. The order passed by the High Court is for the noble object of resolving the dispute between the close relatives by way of mediation. If the decree is executed very object of referring the matter for mediation, considering the close relationship, will be defeated.

8. Therefore, in the present situation, a direction is issued to the Mediation Centre, District Court, Nagapattinam to take up the matter and complete the mediation process within a period of four

months from the date of receipt of copy of this order. Till such time, the execution proceedings before the Sub-Court, Mannargudi may be deferred. The petitioners are at liberty to approach the Hon'ble High Court in S.A.No.323 of 2015 for further orders regarding stay of execution.

9. With the above direction, the Civil Revision Petition is disposed of. No costs. The connected miscellaneous petition is closed.

13.07.2017

Index : Yes/No
Internet : Yes/No
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Note: Issue order copy on Monday (i.e.17.07.2017)

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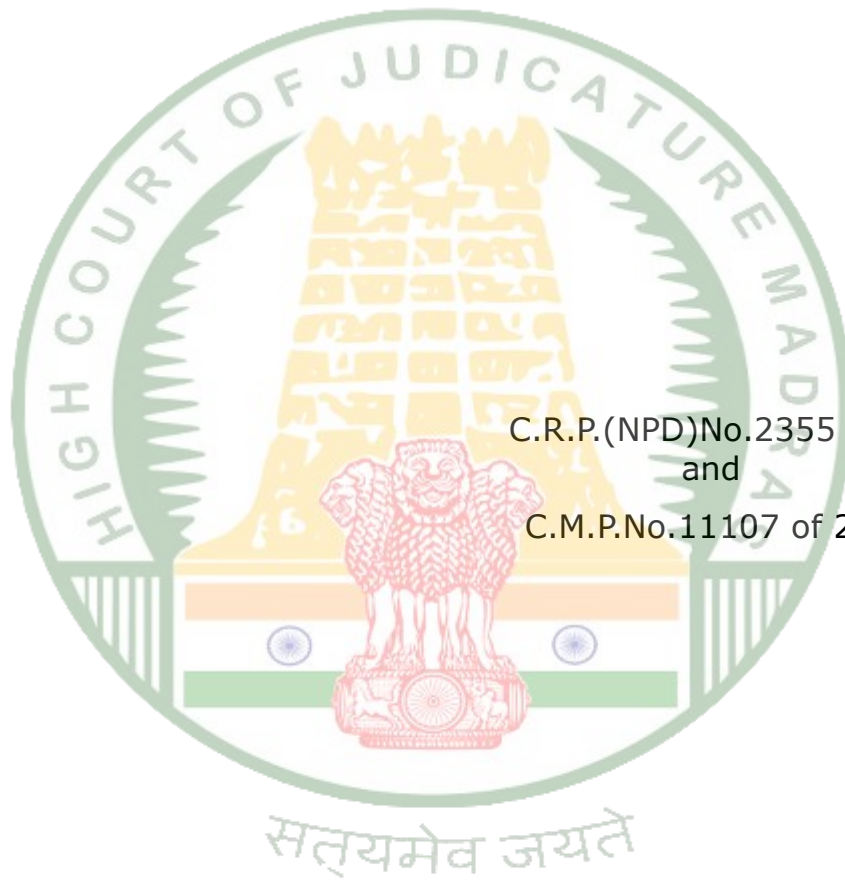
1.The Sub Judge,
Mannargudi.

2. The Mediation Centre,
District Court,
Nagapattinam.

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M.GOVINDARAJ,J.

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