

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CRP (NPD) NO.2608 of 2017

S.K.Sivasamy

... Petitioner

versus

1. Vijayalakshmi

2. K.Santhamani

3. A.Rathinabaggiam

... Respondent

PRAYER: Civil Revision Petition has filed under Section 115 of the Civil Procedure Code, to direct the learned Second Additional Subordinate Judge, Coimbatore, to dispose of the Execution Petition E.P.No.65 of 2015 in O.S.No.110 of 2001.

For Petitioner : Mr.A.Suresh Sakthi Murugan

ORDER

This Civil Revision Petition is filed for a direction to the II Additional Subordinate Judge, Coimbatore to dispose of the Execution Petition in E.P.No.65 of 2015 in O.S.No.110 of 2001, within a time

2. The petitioner is the decree holder. He has filed a suit for specific performance. Even though the decree was passed on 01.04.2002 and the appeal filed against the decree was also dismissed on 26.03.2010, he could not enjoy the fruits of the decree.

3. From the perusal of the typed-set, it is seen that there were two rival suits. The first suit was filed by one M.K.Sivasamy in O.S.No.1027 of 1997, wherein the petitioner herein was the fifth defendant and the same was dismissed for default on 07.04.2004. The second suit was filed by the petitioner/plaintiff in O.S.No.110 of 2001 and a decree was passed on 01.04.2002, against which, an appeal in A.S.No.270 of 2003 was filed and the same was also dismissed on 26.03.2010. Thereafter, an execution petition was filed in the year 2015, but till date, the decree could not be executed.

4. The said M.K.Sivasamy has filed a petition under Order XXI Rule 97 read with Section 151 of the Civil Procedure Code, in E.A.No. 671 of 2015 and same was dismissed on 05.10.2016. Again, he has filed another petition under Order XXI Rule 97 read with Section 151 of the Civil Procedure Code in E.A.No.695 of 2016. In the said application, notice was ordered on 05.12.2016.

5. The grievance of the petitioner is that eventhough the

Court has returned the papers for explaining the maintainability of the application, the petitioner has not handed over the properties. In the second application filed in E.A.No.695 of 2016, only notice is ordered. The execution of the decree is delayed for one or the other reason. Aggrieved over the long pendency, the petitioner/decreed holder has filed the present civil revision petition for earlier disposal of the execution petition.

6. Admittedly, E.A.No.695 of 2016 is pending of the file of the Execution Court. Without disposing E.A.No.695 of 2016, E.P.No. 65 of 2015 cannot be disposed of. Therefore, this court directs the learned II Additional Subordinate Judge, Coimbatore, to dispose of E.A.No.695 of 2016, within the period of one month from the date of receipt of a copy of this order and subsequently, dispose of E.P.No. 65 of 2015, as expeditiously as possible.

7. Civil Revision Petition is disposed of with the above directions. No costs.

07.08.2017

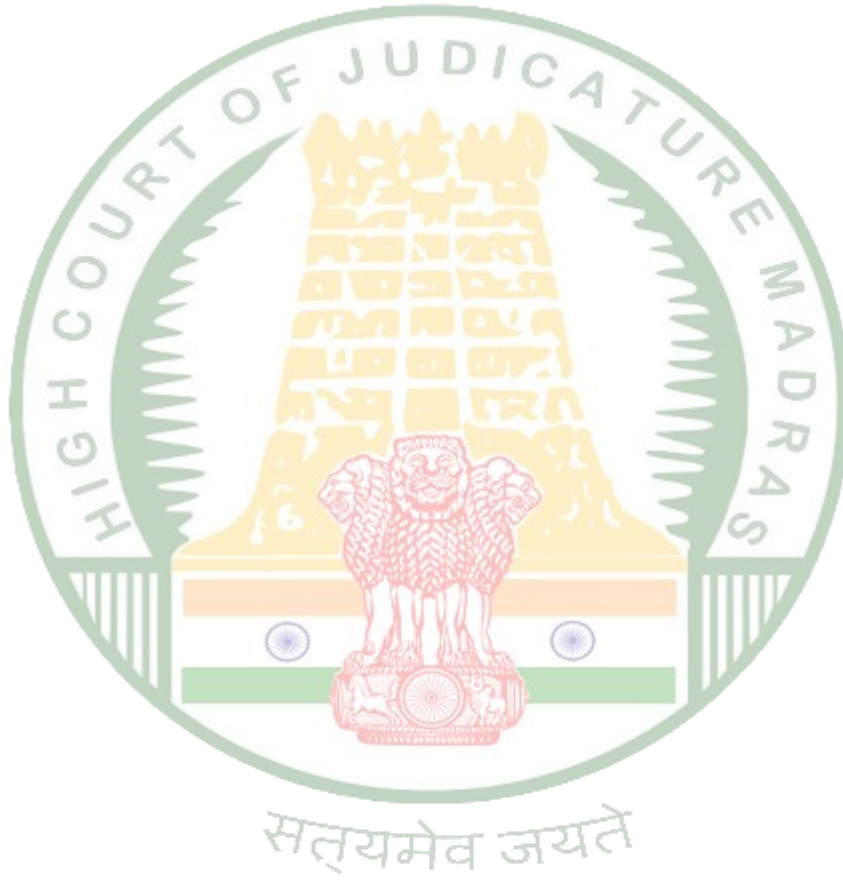
Index : Yes/No

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Internet : Yes/No
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To

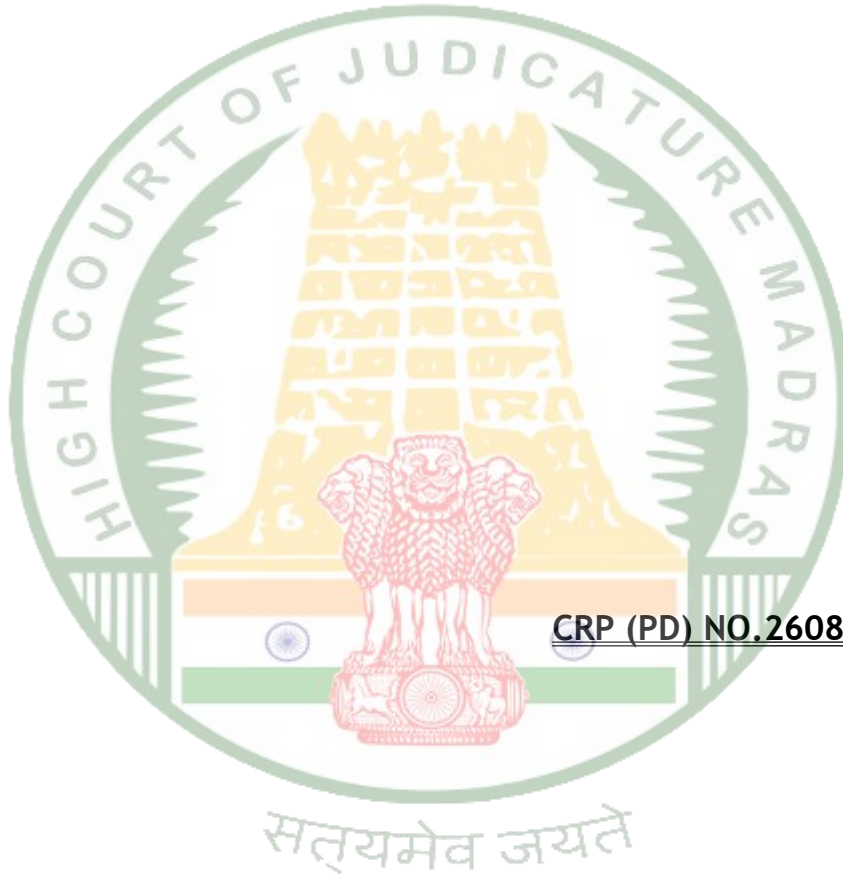
The learned Second Additional Subordinate Judge,
Coimbatore.



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M.GOVINDARAJ, J.

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