

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2017

Coram

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD).No.2863 of 2017
and CMP.No.13498 of 2017

M.Palani

...Petitioner

Vs.

Muniammal (Deceased)

1. Mrs.Malliga
2. Mrs. Kanchana
3. Mr.V.Sathish Kumar

...Respondents

Prayer: Civil Revision Petition filed under Article 115 of C.P.C against the Order and Decretal Order of the Learned IX Asst, City Civil Judge, Chennai made in E.P.No.219 of 2016 in I.A. No. 20885 of 2000 in O.S. No. 5497 of 1996 dated 17.06.2017.

For Petitioner : Mr. B.Divakaran

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ORDER

The Civil Revision Petition has been filed against the Order and Decretal Order of the learned IX Asst, City Civil Judge, Chennai

made in E.P.No.219 of 2016 in I.A. No. 20885 of 2000 in O.S. No. 5497 of 1996 dated 17.06.2017, Wherein, in the final decree, it is stated as follows:

".....The petitioners/plaintiffs be and hereby allotted 2050sq.ft on the North Western side up to South leaving the remaining portion on the North Eastern Side demarcated by a passage in the middle running from North to South".

2. Accordingly, the Execution Petition was filed claiming 2050 sq.ft as per the decree passed by the Trial Court dated 17.06.2017.

3. In the Civil Revision Petitioner filed before this Court, it is stated that the exact North Western Side was not demarcated and it requires assistance of a Civil Engineer as well as a Town Surveyor.

4. The Execution petition has been ordered on 17.06.2017 for delivery of property and the tenants, who are in possession of symbolic delivery, is sought to be ordered by the four sharers, namely, decree holders.

5. The Execution Petition is filed for delivery of symbolic possession in respect of Item No.1 of the property, but actually Item No. 2 of the property. Insofar as Item No. 2 of the property is concerned, the learned counsel for the petitioner submits that it is not properly demarcated and therefore, it requires assistance of a Town Surveyor as well as a Civil Engineer. Therefore, this court is of the considered opinion that the delivery ordered by the Execution Court need not be interfered with. In respect of delivery of property, the Execution Court can appoint a Civil Engineer as well as a Town Surveyor to measure the exact property by metes and bounds.

6. Accordingly, a direction is given to the Execution Court to complete the exercise within a period of 15 days from the date of receipt of a copy of this order.

7. With the above direction, this Civil Revision Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

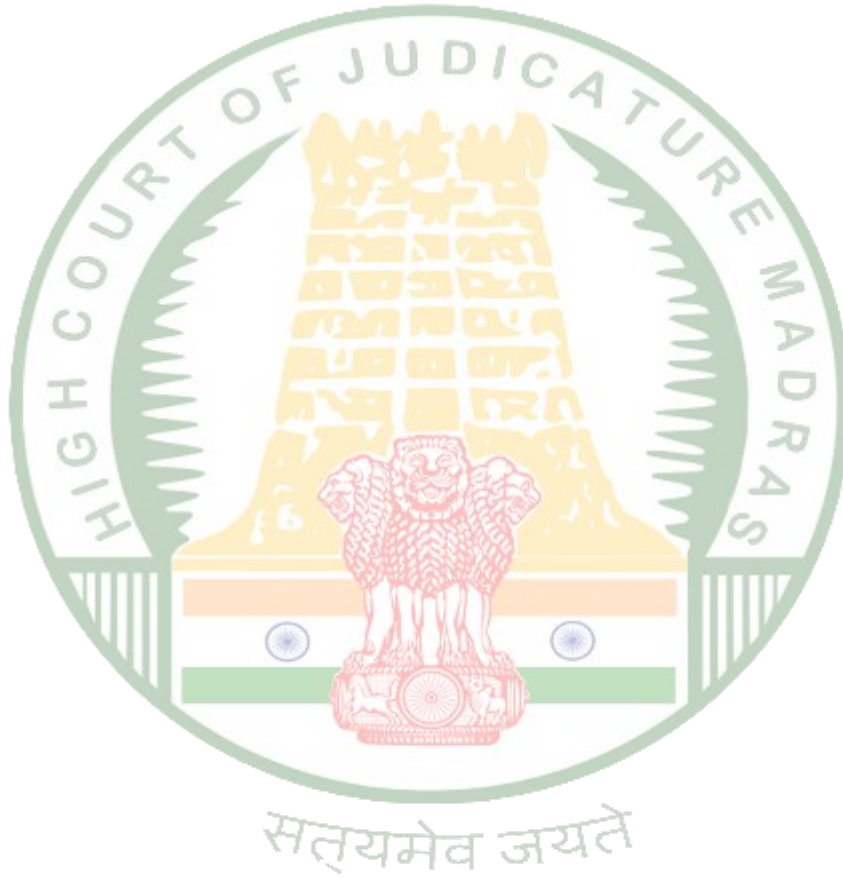
17.08.2017

Index : yes/no

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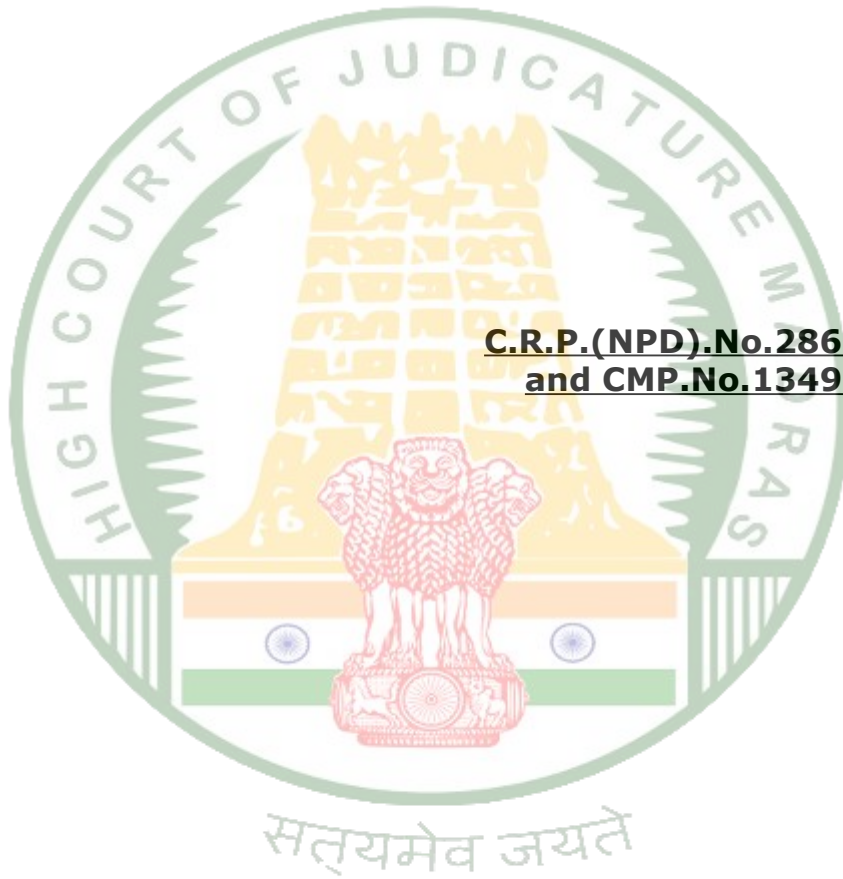
IX Assistant Judge, City Civil Court
Chennai



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M.GOVINDARAJ, J.

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