

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CRP(NPD).No.3155 of 2017
and CMP No.14810 of 2017

1. Mrs.Rajani
 2. Karthikeyan

... Petitioners

vs.

Arulmigu Sri Ramulu Chettiar,
 Specific Endowment attached to
 Madhavaperumal Temple,
 Represented by Executive Officer,
 Mylapore, Chennai-600 004.

... Respondent

PRAYER: Civil Revision Petition filed under section 115 of C.P.C, to set aside the order passed by the IX Assistant City Civil Court, Chennai in E.A.S.R. No. 42099/2015 in E.P.No. 787/1992 in O.S.No. 9094/1977 dated at 08.06.2017 and thereby number the E.A.S.R.42099/2015.

For Petitioner : Mr.S.William

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ORDER

The Civil Revision Petition is directed against the dismissal of the petition filed under Section 47 C.P.C in unnumbered stage.

2. The petitioners claim that they are the tenants from the

year 1953. Decree was passed for eviction in the year 1985 and appeal was also filed which was dismissed in 1989. Thereafter, the decree holder has filed Execution Petition in the year 1992. While Execution Petition has pending, the Government in G.O.Ms.No.340 (H.R&C.E) dated 06.08.2007 an Order stating that the encroachers who continue for more than 30 years, can be treated as tenants, provided, they pay arrears of the rent. On the basis of this Government Order, the petitioners claim that the decree has become nullified.

3. The Trial Court has found that the decree is in force and it cannot go beyond the decree in view of the Government Order. Admittedly, the Writ Petition has also been filed in W.P. No. 177 of 2014 seeking Writ of Mandamus directing the Commissioner of H.R.& C.E to consider the representation, in the light of the said Government Order dated 06.08.2007. The petitioners have also sent representations on 29.12.2012, 14.05.2013 and 19.12.2014. Still, the Commissioner H.R&C.E has not passed any order and the writ petition is also still pending.

4. In such circumstance, application under section 47 C.P.C is filed to declare that the decree of the year 1985 is nullity. In view of

the Government Order, Execution Court has given a finding as long as decree is not set aside by an order of the Court, it is bound to execute the same. I do not find any discrepancy in the finding of the Execution Court. Admittedly, the decree is in force and it is not interfered with by any Judicial Order. In such circumstances, the Execution Court is bound to execute the same. The Civil Revision Petition does not merit any consideration.

5. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

30.08.2017

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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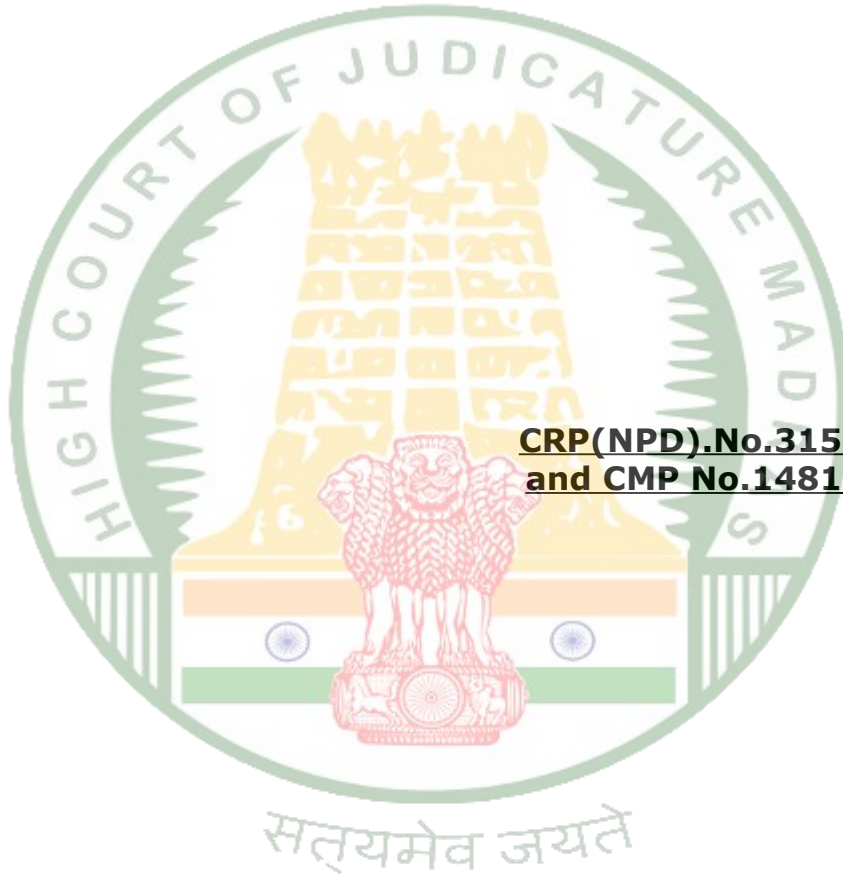
To

The IX Assistant City Civil Court
Chennai.

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M.GOVINDARAJ.,J.

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