

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD).No.4096 of 2017

and

C.M.P.Nos.19191 and 19192 of 2017

M.Sudarsan

.... Petitioner

- Vs -

1. Gunasiva

2. Kamini

3. Arunachalam

... Respondents

Prayer : Writ Petition filed under Article 227 of the Constitution of India challenging the order passed in R.E.P.No.51 of 2011 in O.S.No.118 of 2010, dated 12.07.2012, on the file of the learned Subordinate Judge, Dharmapuri.

For Petitioner

: Mr. D.Veerasekaran
for Mr.M.Devaraj

ORDER

The 1st respondent has filed the suit in O.S.No. 118 of 2010 before the Sub-Court, Dharmapuri. In the aforesaid petition decree has been passed and therefore, the 1st respondent has filed Execution Petition in R.E.P.No.51 of 2011 to execute the decree for delivery of possession and order was passed on 12.07.2012. Subsequently, possession has been delivered. Challenging the said order, the present revision has been filed before this Court.

2. In view of the above said fact, the learned counsel for the petitioner has fairly submitted that the possession has been taken by the respondent/plaintiff and since there is a threat, alienating the said property in favour of the third party when the petitioner filed an application in I.A.SR.No.6434 of 2017 is pending and likely to be numbered before the trial court along with the condone delay application.

3. Further, it is also submitted that in view of subsequent development under the execution petition, the petitioner also filed appropriate application before the trial court for the injunction restraining the respondents from alienating the suit property. At this stage, it is an admitted fact that the order has been executed in R.E.P.No.51 of 2011

and possession also taken by the respondent/plaintiff, this Court cannot grant any relief to the petitioner and no prima-facie case is made out to entertain the revision.

4. The learned counsel for the petitioner submitted that till the injunction application filed by the petitioner before the trial court, he seeks interim protection from this Court.

5. By considering the above said submission made by the learned counsel for the petitioner, this revision petition is dismissed and it is open to the petitioner to file an application for interim injunction, if so advised, if permissible in law, within a period of three weeks from the date of receipt of a copy of this order. Till such time, statusquo from alienating the property is granted. It is for the Court below to consider such an application in accordance with law, after affording opportunities to the parties concerned.

With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index:Yes/No
Speaking order/Non-speaking order
ssn
Note:Issue order copy on 22.11.2017

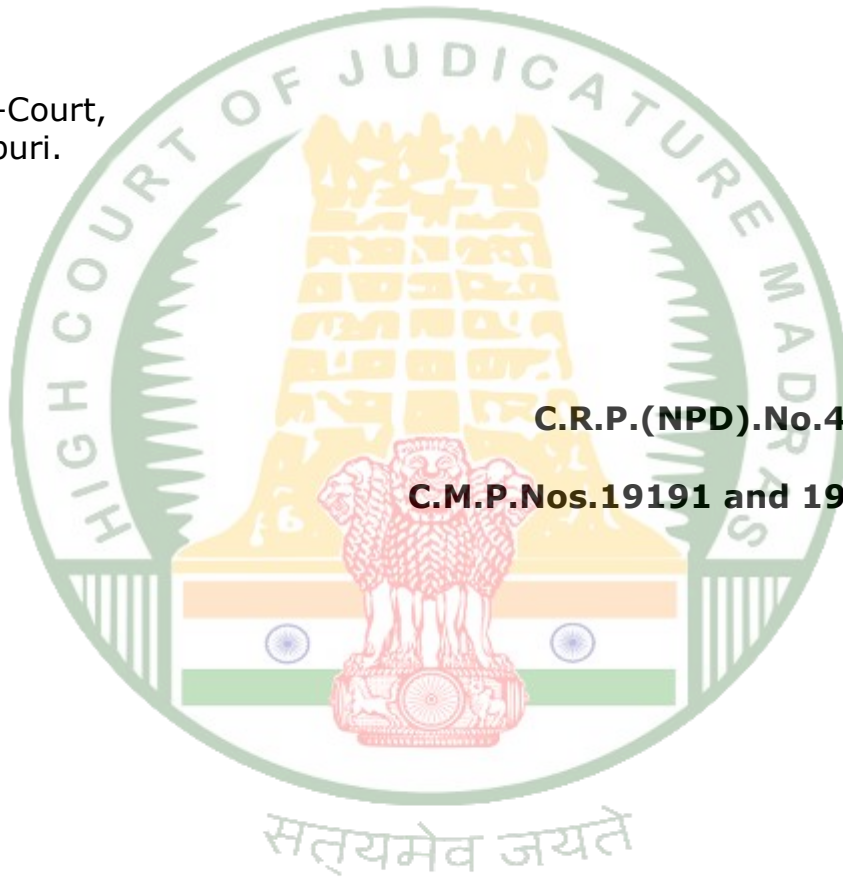
08.11.2017

D.KRISHNAKUMAR, J.,

ssn

To

The Sub-Court,
Dharmapuri.



**C.R.P.(NPD).No.4096 of 2017
and
C.M.P.Nos.19191 and 19192 of 2017**

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08.11.2017

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D.KRISHNAKUMAR,J

At the instance of the learned counsel for the respondents, the matter is posted today under the caption "being mentioned".

2. As requested by the learned counsel for the petitioner, the order dated 08.11.2017, passed by this Court in this Civil Revision Petition is modified as follows :

Paragraph 3, to be read as follows, after deleting the first four lines :

3. At this stage, it is an admitted fact that the order has been executed in R.E.P.No.51 of 2011 and possession also taken by the respondent/plaintiff, this Court cannot grant any relief to the petitioner and no prima-facie case is made out to entertain the revision.

3. Since, the matter has come up for 'Being Mentioned' and in view of the modification, the status quo as on today is granted for a further period of one week, pursuant to the order dated 08.11.2017.

D. KRISHNAKUMAR J.

avr

4. It is made clear that the rest of the order, remains unchanged.
Registry is directed to prepare a fresh order incorporating the necessary corrections.

15.12.2017

Note :

1. Issue fresh order copy to the counsel for petitioner and respondent.
2. Mark a copy of the fresh order to the Sub-Court, Dharmapuri.

[Issue order copy today i.e. 15.12.2017]

avr

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and

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