

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.12.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP(NPD)No.4496 of 2017

and

C.M.P. No.21234 of 2017

M.Balashanmugam

..Petitioner

Vs.

1.Mayangathal

2.Ponnammal

3.Ruckmani

..Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 08.09.2017 made in E.A.No.13 of 2017 in E.P. No.14 of 2017 in O.S. No.213 of 2002 on the file of the Sub-Court, Avinashi.

For Petitioner : Mr.V.P.Sengottuvel

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 08.09.2017 made in E.A.No.13 of 2017 in E.P. No.14 of 2017 in O.S. No.213 of 2002 on the file of the Sub-Court, Avinashi.

2. According to the learned counsel for the petitioner, the petitioner has filed the suit for partition in O.S.No.213 of 2002 before the learned Subordinate Court, Avinashi. A preliminary decree was passed in the above said suit on 25.07.2003 and thereafter, final decree was also passed on 30.10.2012 by the Court below. The revision petitioner has filed the Execution Petition in E.P. No.73 of 2014 to execute the decree. According to the learned counsel for the petitioner, an exparte order was passed in E.P. No.73 of 2014 on 23.09.2016. The respondents have filed E.A. No.13 of 2016 to set aside the exparte order. The said application was allowed by the Court below on payment of cost. Challenging the aforesaid order in E.A. No.13 of 2016 dated 08.09.2017, the petitioner has filed the present Civil Revision Petition before this Court.

3. According to the petitioner, the intention of the respondents is to protract and drag on the proceedings by one way or the other. The petitioner has obtained the decree in O.S. No.213 of 2002 in the year of 2003 and also the final decree on 30.10.2012. Still, the petitioner has not enjoyed the fruits of the decree passed by the Court below and therefore, the petitioner has challenged the said order before this Court.

4. Taking into consideration of the above said facts and in the interest of justice for providing opportunity to the respondents, the Execution Court has rightly allowed the set aside application. In view of the above, there is no warrant of interference in this case. The respondents shall also co-operate for the disposal of the Executive Petition without any default. Therefore, at this stage, this Court is not inclined to entertain the Civil Revision Petition.

5. Accordingly, the Civil Revision Petition is dismissed with a direction to the Execution Court to dispose of the Executive Petition as expeditiously as possible if there is no other impediments. No Costs. Consequently, connected miscellaneous petition is closed.

11.12.2017

rkp

Index :Yes/No

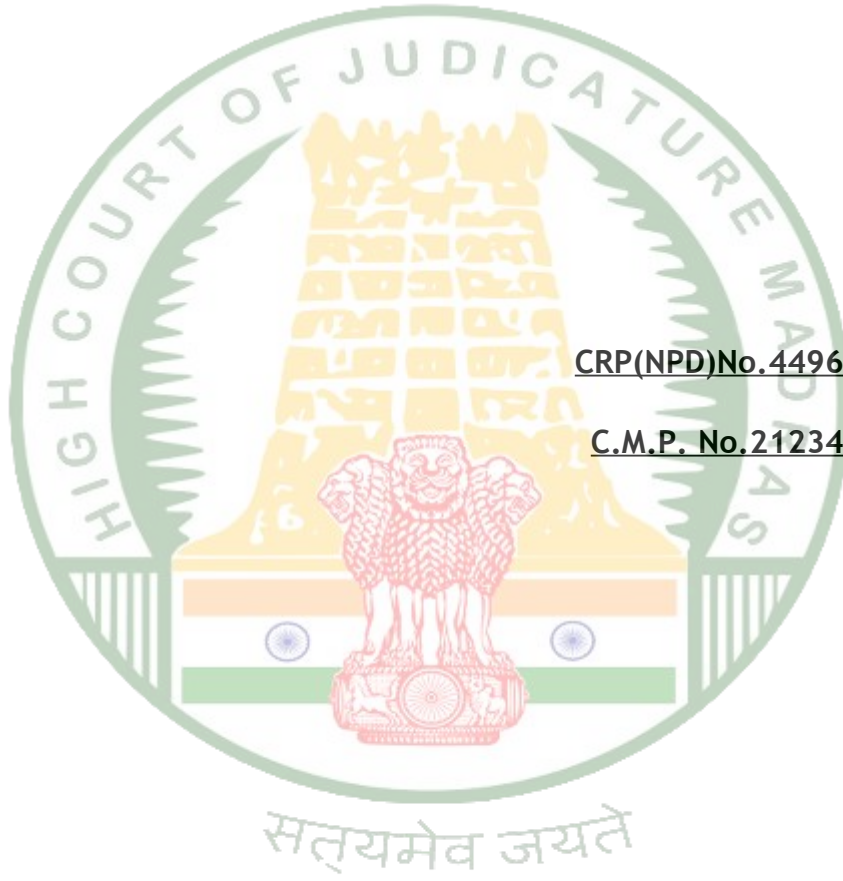
Internet:Yes/No

Speaking order/Non Speaking order

To

The Sub-Judge,
Avinashi.

D.KRISHNAKUMAR,J.
rkp



CRP(NPD)No.4496 of 2017
and
C.M.P. No.21234 of 2017

WEB COPY 11.12.2017