

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4961 of 2011
& M.P.No.1 of 2011

Hemamalini

.. Petitioner

Vs.

B.Santhosh

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to dispose the Execution Petition in E.P.No.20 of 2010 without insisting the petitioner to take paper publication and prays this Court to grant the same.

For Petitioner : Ms.K.Sumathi

For Respondent : service awaited

ORDER

This Civil Revision Petition is filed to dispose E.P.No.20 of 2010 within the stipulated time, without insisting the petitioner to take paper publication.

2. The petitioner filed E.P.No.20 of 2010 for realising the maintenance ordered directing the respondent to pay the said amount to her. In the said execution petition, notice was not served on the respondent. The Principal Family Court, Chennai, ordered paper publication in one issue of EENADU daily of Hyderabad edition for the hearing on 09.07.2011. According to the petitioner, the cost of the paper publication is more than Rs.15,000/- and the petitioner cannot afford the same. The petitioner has filed the present civil revision petition to dispose the execution petition without insisting the petitioner to take paper publication to serve the respondent.

3. The learned counsel appearing for the petitioner submitted that the learned Judge directed the petitioner to serve the notice on the counsel, who appeared on behalf of the respondent in the above said E.P., the said order was complied with and affidavit of service was filed on 09.07.2011 after serving the notice on the counsel. In view of the same, the learned Judge ought to have allowed the execution petition. She further submitted that the respondent filed C.R.P.(NPD)No.2533 of 2010 challenging the order dated 21.07.2009 made in I.A.No.3051 of 2008 in F.C.O.P.No.455 of

2008 on the file of the Principal Family Court, Chennai. When the said civil revision petition is taken up for final hearing on 31.07.2017, the learned counsel appearing for the respondent herein, who is the petitioner in C.R.P.No.2533 of 2010, reported no instructions and C.R.P.(NPD)No.2533 of 2010 filed by the respondent was dismissed. Notice in the execution petition was not served on the respondent.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Notice in the execution petition was not served on the respondent and the respondent was not entered appearance in the execution petition. In view of the same, notice to the respondent in the present civil revision petition i.e., C.R.P.No.4961 of 2011 is dispensed with.

6. According to the petitioner, she is unable to meet the expenses for paper publication and she has to maintain the autism child aged about 14 years.

7. Considering the fact that the petitioner filed the execution petition for recovery of maintenance ordered, the contention of the learned counsel appearing for the petitioner that the petitioner could not afford the expenses for paper publication, the order of the learned Judge ordering paper publication is set aside. The learned Judge is directed to order substitute service by affixture in Court notice board the office address as mentioned in the execution petition, where the respondent is working and on completion of such affixture in Court notice board and address where the respondent is working, the learned Judge is directed to dispose the execution petition on merits and in accordance with law.

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

21.08.2017

Index : Yes/No
dm/kj

To

The II Additional Family Judge,
Chennai.

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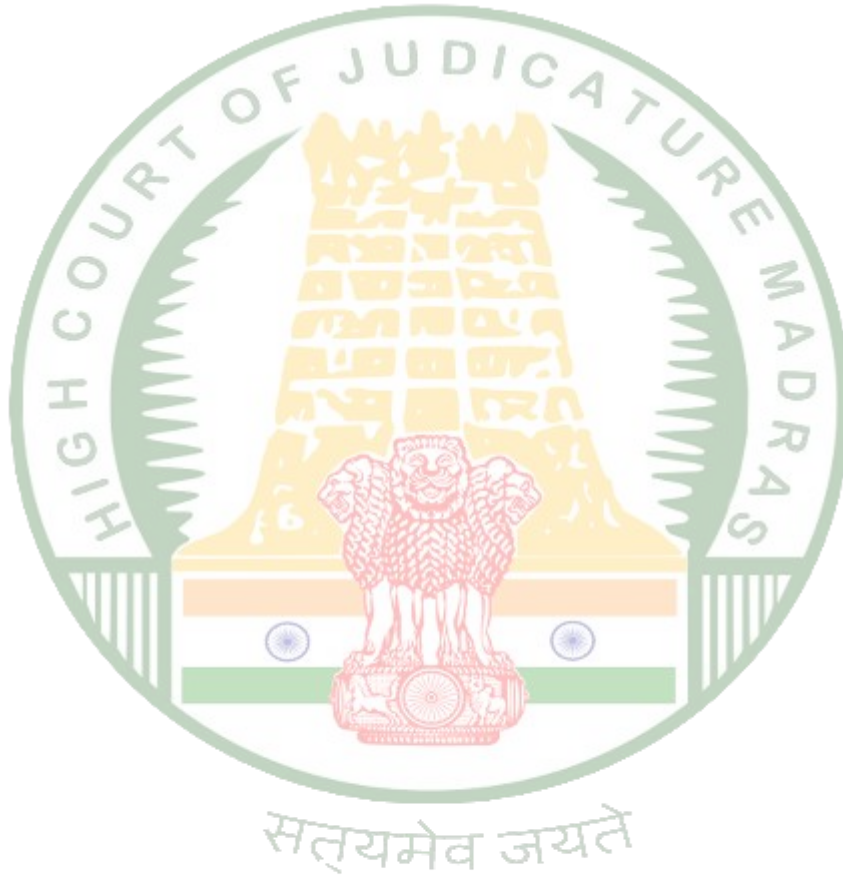
V.M.VELUMANI, J.

dm/kj

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