

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.5154 of 2011
& M.P.No.1 of 2011

1.Amirthammal
2.Kamala

.. Petitioners

Vs.

P.Subramani

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., against the fair and decretal order dated 09.12.2011 made in E.P.No.2061 of 2010 in O.S.No.7445/2007 on the file of the IX Assistant City Civil Court, Chennai.

For Petitioners

: M/S.Prof M.Udhaya Bhanu

For Respondent

: Mr.M.Balasubramanian

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 09.12.2011 made in E.P.No.2061 of 2010 in

O.S.No.7445/2007 on the file of the IX Assistant City Civil Court, Chennai.

2. The petitioners/judgment debtors are the defendants and respondent/decree holder is the plaintiff in O.S.No.7445 of 2007. The said suit was decreed on 20.10.2009. The respondent filed E.P.No.2061 of 2010 for executing the decree for delivery of possession.

3. The petitioners filed counter stating that the respondent is their brother and he permitted them to occupy the property as widows on compassionate ground. The decree is not executable. The respondent has not given correct description of the property and there are three occupants in the property.

4. The learned Judge considering the fact that even though the petitioners have stated that they have filed appeal challenging the judgment and decree made in O.S.No.7445 of 2007, they have not furnished appeal number and produced the order of stay granted by the Appellate Court, ordered execution petition.

5. Against the said order dated 09.12.2011 made in E.P.No.2061 of 2010, the present civil revision petition is filed by the petitioners/judgment debtors.

6. When the civil revision petition is taken up for hearing, the learned counsel for the respondent submitted that S.A.No.186 of 2016 filed by the petitioners was dismissed on the ground that possession has already been taken in the execution proceedings and the petitioners also participated in the proceedings and nothing survives in the second appeal.

7. From the materials on record, it is seen that the respondent obtained decree of possession. The petitioners have stated that they filed an appeal and they have not proceeded further in the appeal and obtained interim order. Now the learned counsel for the respondent submitted that the second appeal filed by the petitioners was dismissed and possession has been taken by respondent. These submissions are not disputed by the learned counsel for the petitioners.

V.M.VELUMANI, J.

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8. For the above reason, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

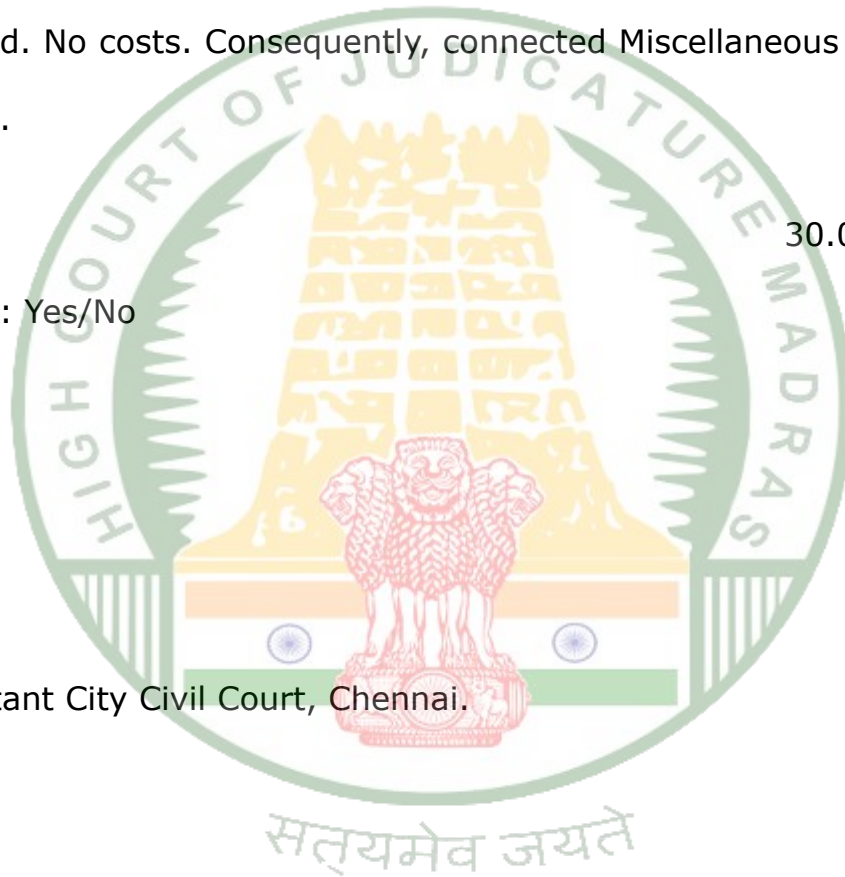
30.08.2017

Index : Yes/No

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To

IX Assistant City Civil Court, Chennai.



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