

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4297 of 2015

A.Badrinarayanan

.. Petitioner

Vs.

1.Margadarasi Chits Private Ltd.,
No.24, Sardar Patel Road,
Adyar, Chennai 600 020.

2.R.Raja

3.S.K.Maheswari

4.G.Raja

5.P.Dharamchand

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the order dated 21.04.2015 made in E.P.No.4463 of 2014 in A.R.C.No.825 of 2007 on the file of the IX Assistant City Civil Court, Chennai.

For Petitioner : Mr.M.Aravind Subramaniam

For R1 : Mr.D.Shivakumaran

For R2 to R4 : Not ready in notice

For R5 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 21.04.2015 made in E.P.No.4463 of 2014 in

A.R.C.No.825 of 2007 on the file of the IX Assistant City Civil Court, Chennai.

2.Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record.

3.The petitioner is 4th respondent, first respondent is the petitioner, respondents 2 to 4 are the respondents 1 to 3 and 5th respondent is the 5th respondent in E.P.No.4463 of 2014. The said E.P is filed by the first respondent for attachment and sale of the movables belonging to the petitioner and second respondent herein. According to the petitioner, the first respondent also filed E.P.No.4465 of 2014 for arrest of 5th respondent/JD5. The first respondent served copy of the E.P.No.4465 of 2014, mentioning E.P number as E.P.No.4463 of 2014. The petitioner on seeing the prayer in the said E.P, filed formal counter, since they are only formal parties. No relief is sought against them in the said E.P. Notice in E.P filed against the petitioner and second respondent for attachment and sale of movables was not served on the petitioner. The learned Judge, without properly appreciating the contention of the petitioner, ordered attachment.

4.From the typed set of papers filed by the petitioner, it is seen that both the E.Ps are numbered as E.P.No.4463 of 2014 and served copy of the E.P for arrest of JD5 on the petitioner, mentioning the E.P as E.P.No.4463 of 2014. In view of this fact, the order of the learned Judge is set aside. The E.P is remitted back to the IX Assistant City Civil Court, Chennai. It is open to the petitioner to file a counter within a period of two weeks from the date of receipt of a copy of this order. On filing the said counter, the learned Judge is directed to dispose the E.P after hearing the parties on merits and pass orders in accordance with law within a period of two weeks from the date of filing of counter by the petitioner.

5.In the result, this Civil Revision Petition is allowed. No costs.

15.11.2017

Index: Yes/No
gsa

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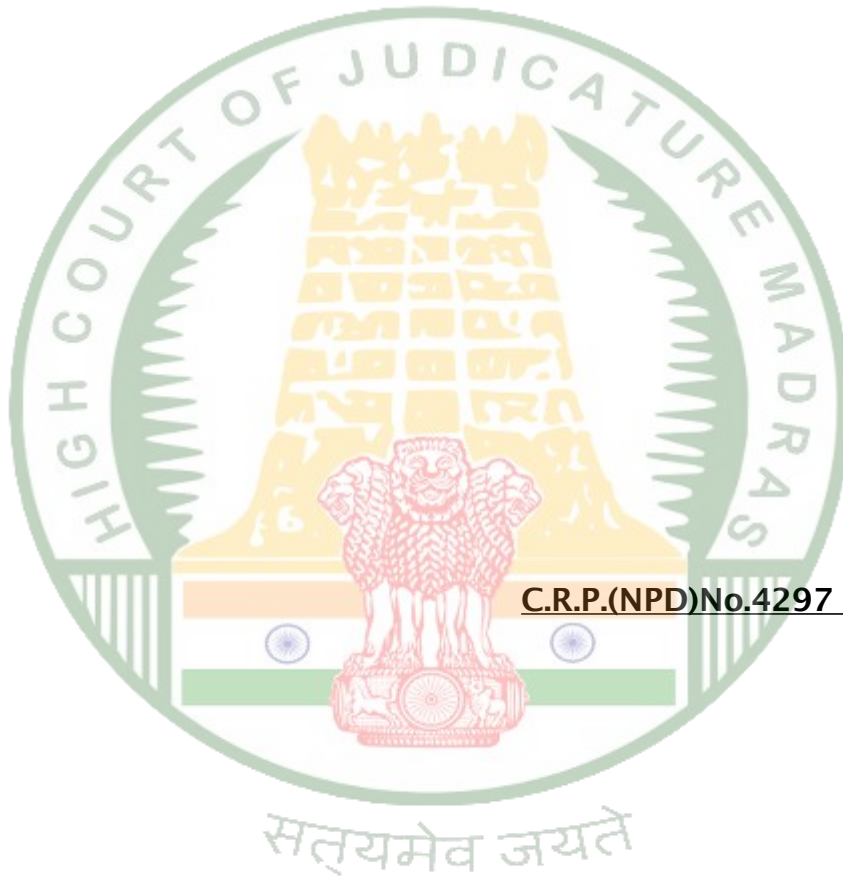
Note: Issue order copy by 20.11.2017

To

The IX Assistant City Civil Judge,
Chennai.

V.M.VELUMANI,J.

gsa



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