

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.3280 of 2012
and M.P.No.1 of 2012

Palaniappa Gounder

.. Petitioner

Vs.

1.A.A.Sakthivel
2.A.S.Sangameswaran

.. Respondents

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decretal order dated 10.07.2012 made in R.E.P.No.67 of 2009 in O.S.No.231 of 2006 on the file of the Principal District Munsif Court, Tiruchengode (previously O.S.No.1026 of 1979 on the file of the District Munsif Court, Sankari at Salem).

For Petitioner : Mr.V.Babu

For Respondents : Dr.P.Jagadeesan
caveator

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 10.07.2012 made in R.E.P.No.67 of 2009 in O.S.No.231 of 2006 on the file of the Principal District Munsif Court, Tiruchengode (previously O.S.No.1026 of 1979 on the file of the District Munsif Court, Sankari at Salem).

2. According to the petitioner, the respondent claimed only 5 cubits of cart track and decree also passed only for that extent. But they filed the execution petition to form 5 metre width cart track instead of 5 cubits. The Execution Court has allowed the said E.P. on the ground that the Execution Court cannot go beyond the decree.

3. The learned counsel for the respondent submitted that final decree in I.A.No.751 of 2006 was passed to form 5 metre width cart track for both the petitioner and respondent. In view of the final decree, the respondent has filed execution petition and the said execution petition was ordered. As per the order, now the cart track was formed and both the petitioner and respondent are using the cart track.

4. Heard both sides and perused the materials on record.

5. I have gone through the decretal order dated 06.10.2007 passed in I.A.No.751 of 2006 in O.S.No.231 of 2006. By the said order, the Trial Court has passed final decree. As per clause 3 of the said decretal order, the Court has directed the Advocate Commissioner to lay a common pathway measuring 6 meters x 106 meters till West and 6 X 16 meters from West towards North to be used as common pathway for both petitioner and respondents. The respondents filed E.P. for implementing the said clause. The E.P. Court has ordered as per the final decree contained in clause 3. Unless the final decree is amended, the Executing Court cannot go beyond the decree passed by the Trial Court. The learned counsel for the respondents submitted that as per the impugned order, a common pathway of 5 meters width was laid and both petitioner and respondents are using the same. The learned counsel for the petitioner took time to get instructions in this regard. The learned counsel for petitioner did not get any instruction.

6. In view of the fact that the Executing Court has passed order as per clause 3 of final decree dated 06.10.2007, I find no irregularity in the order of the Executing Court warranting

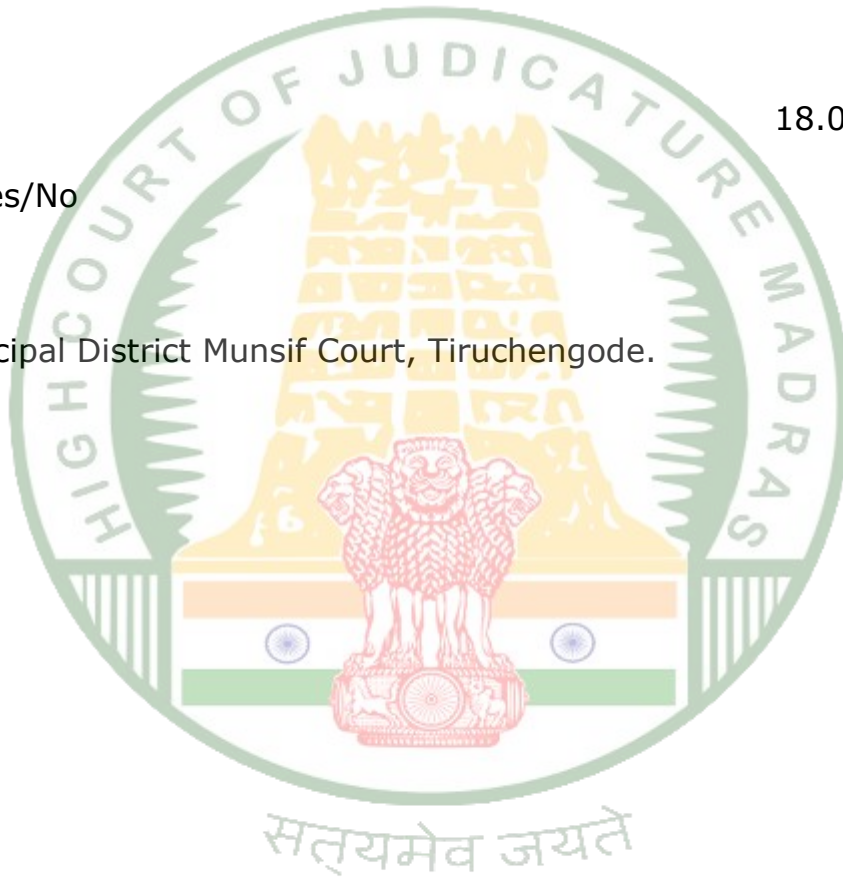
interference by this Court.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

18.09.2017

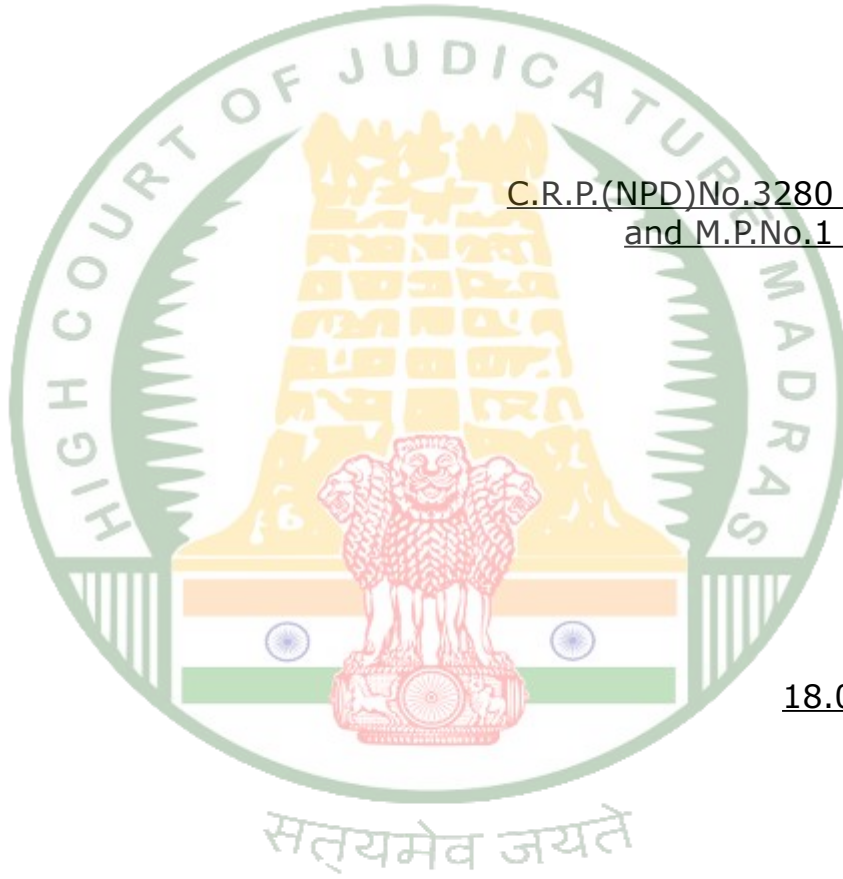
Index:Yes/No
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To
The Principal District Munsif Court, Tiruchengode.



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V.M.VELUMANI, J.



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