

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.363 of 2004
C.M.P.No.3073 of 2004

T.P.Thangavelu .. Petitioner

Vs.

1. The Trust of Kota Venkatanarasimham
Rep.by its Hereditary Trustee, Kota Ethiraj of
Kota Narashimham, Madras – 600 010.
2. Sri Chenna Malleswarar of Sri Chenna
Kesavaperuma Devasthanam, rep.by its
Hereditary Trustee Manali Ramakrishna
Mudaliar, Madras 600 003.
3. The Special Officer,
Corporation of Chennai
Chennai 600 003.
4. The Commissioner
Corporation of Chennai
Chennai 600 003.

.. Respondents

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India, against the fair and decretal order dated 24.11.2003 made in E.A.No.5275/2003 in E.P.No.1756/2002 in O.S.No.2718/1983 on the file of the X Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.Balakrishnan
For R1 & R2 : Mr.P.Murugaiyan
For R3 : M/s.M.Jayashree,
Government Advocate (CS)
For R4 : M/s.Kartika Ashok

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 24.11.2003 made in E.A.No.5275/2003 in E.P.No.1756/2002 in O.S.No.2718/1983 on the file of the X Assistant Judge, City Civil Court, Chennai.

2. The petitioner is judgment debtor in O.S.No.2718 of 1983 on the file of the X Assistant Judge, City Civil Court, Chennai. The respondents 1 and 2 filed the said suit against petitioner and respondents 3 and 4 for permanent injunction and for mandatory injunction. The said suit was decreed on 29.04.1987. The respondents 3 and 4 did not file any appeal. The first appeal and second appeal filed by the petitioner were dismissed. The respondents 1 and 2 filed E.P.No.1756 of 2002 to execute the decree dated 29.04.1987 passed in their favour. The petitioner filed E.A.No.5275 of 2003 under Section 47 of C.P.C alleging that the E.P is not executable as the suit property belong to the State Government and Government has leased the suit property to him. He has put up a superstructure and is paying rent to the

Government and also contended that the suit without impleading the Government is not maintainable.

3. The learned Judge by the order dated 24.11.2003 ordered notice to the first respondent and stated that notice to the respondents 2 to 4 are not necessary.

4. Against the said order dated 24.11.2003 made in E.A.No.5275/2003 in E.P.No.1756/2002 in O.S.No.2718/1983, the present civil revision petition is filed by the petitioner.

5. Heard the learned counsel appearing for the petitioner, respondents 1 & 2, 3rd respondent and fourth respondent separately and perused the materials available on record.

6. From the materials on record, it is seen that the respondents 1 and 2 have filed the suit against the petitioner and respondents 3 and 4 and obtained decree. The respondents 3 and 4 did not take any further proceedings and the said decree has become final. The first appeal and second appeal filed by the petitioner were dismissed. The respondents 1 and 2 have filed E.P.No.1756/2002 against the petitioner and respondents 3 and 4.

At that stage, the petitioner filed the present E.A under Section 47 of C.P.C. The learned Judge has passed an order on 24.11.2003,

stating that notice to the respondents 2 to 4 are not necessary. The respondents 3 and 4 are not contesting the decree as well as the E.P proceedings. The petitioner alone is the contesting party. The petitioner claims that he is a lessee under Government and therefore decree obtained by the respondents 1 and 2 against the petitioner and respondents 3 and 4 without Government being the party is not executable. To prove this contention, the respondents 3 and 4 are not necessary parties and the learned Judge has rightly held that notice to the respondents 2 to 4 are not necessary. In the above circumstances, the civil revision petition is liable to be dismissed.

7. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

सत्यमेव जयते

30.08.2017

Index: Yes/No

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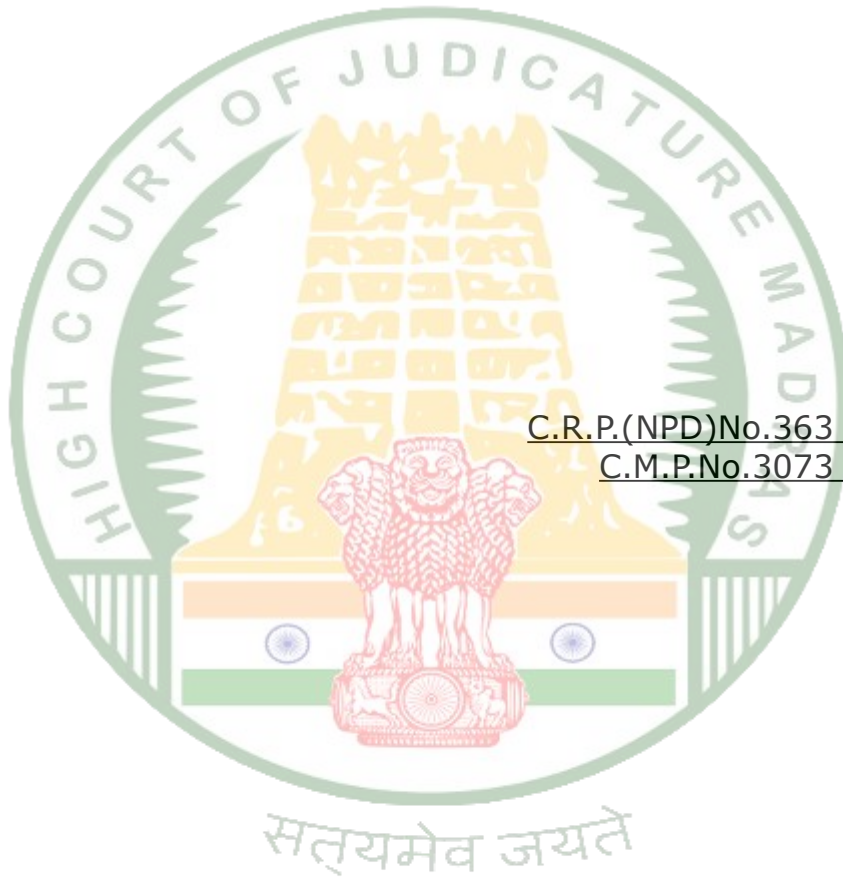
To

1. The XI Judge,
Court of Small Causes, Chennai.

2. Thillaikarasi
Proprietrix
Dhanalakshmi Engineering
No.27, Cross street
New Washermanpet
Chennai 600 081

V.M.VELUMANI,J.

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