

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).No.1391 of 2018

M.Selvaraj

... Petitioner

Vs.

1.Rajendran
2.Valarmathi
3.S.Valambal

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the petition and docket order dated 05.10.2017 made in Unnumbered E.A.No. of 2017 in E.P.No.351 of 2008 in O.S.No.681 of 2004 on the file of the Principal District Munsif Court, Virudhachalam.

For Petitioners : Mr.D.Muthuselvam

ORDER

The relief sought for in this revision is to set aside the petition and docket order dated 05.10.2017 made in unnumbered E.A.No of 2017 in E.P.No.351 of 2008 in O.S.No.681 of 2004 on the file of the Principal District Munsif Court, Virudhachalam.

2. The Revision petitioner filed the unnumbered E.A.No of 2017 in E.P.No.351 of 2008 in O.S.No.681 of 2004 before the Principal District Munsif Court, Virudhachalam.

3. The case of the petitioner is that he purchased the property in the name of his wife/ 3rd respondent. Then, the second respondent filed a suit in O.S.No.681 of 2004 against the third respondent / his wife for recovery of money. Then the suit was decreed and in the E.P. proceedings since the wife of the petitioner not satisfied the decreed amount therefore the property was brought under the sale. Subsequently, the property was sold in the Court auction. Now the petitioner filed this application to set aside the sale and he is ready to pay the amount.

5. The contention of the learned counsel for the petitioner is that the property was purchased by the petitioner in the name of his wife. The wife is only the name lender she did not have any right over the property. Now the wife is living separately due to matrimonial disputes between the petitioner and his wife and there is no nexus between the petitioner and his wife/3rd respondent. When the petitioner filed an appeal, the appeal papers was returned even without numbering the same.

6. Heard the learned counsel for the petitioner and perused the available records.

7. The appeal filed by the petitioner under Section 47 of CPC. Section 47 of CPC is clear that any questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit. Admittedly, in this case the petitioner is neither a party to the suit proceedings nor a purchaser of property at a sale in execution for decree. Therefore, Section 47 of CPC is not applicable to the petitioner.

8. In view of the above discussion, this Court does not find any irregularity or infirmity in the order passed by the execution Court and there is no merits in this revision filed by the petitioner. Hence, the revision petition is liable to be dismissed.

9. In the result, the Civil revision petition is dismissed. No costs.

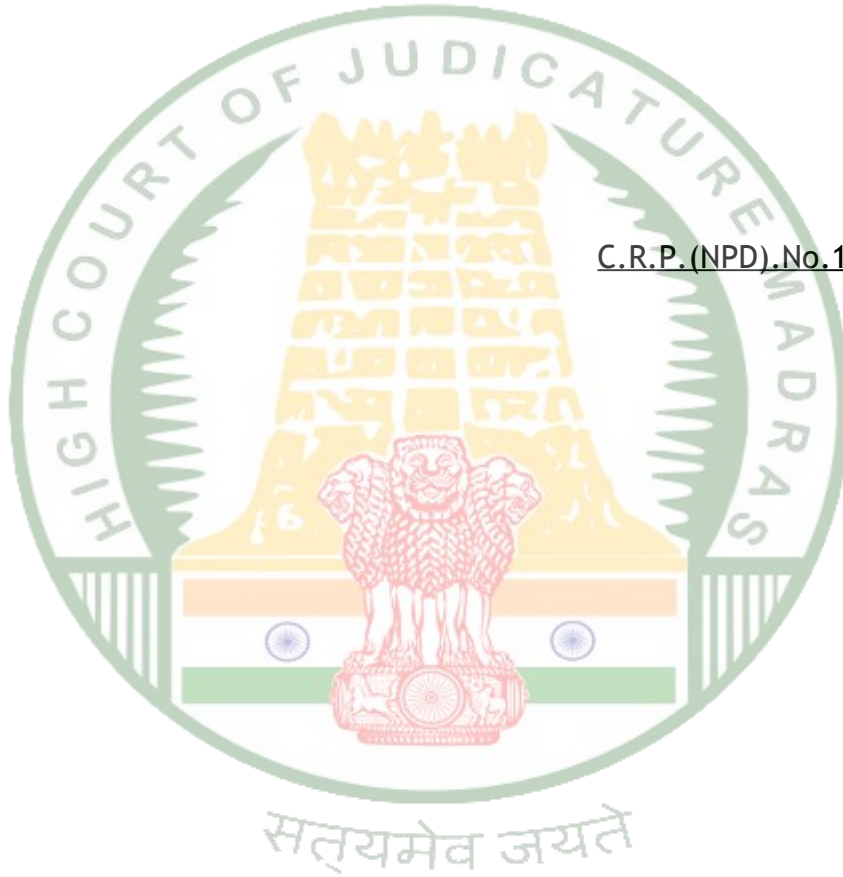
19.04.2018

Index:Yes/No
Speaking order / Non speaking order
vum

P.VELMURUGAN, J.,

vum

To
The Principal District Munsif,
Virudhachalam.



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