

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(NPD)Nos.1676 & 1677 of 2018 and
C.M.P.No.9250 of 2018

1. M.Thiyagarajan
2. M.Sekar

... Petitioners in both the CRPs

Vs.

1. Kamala
2. Neelavathi

... Respondents in both the CRPs

Prayer in both the CRPs: Civil Revision Petitions have been filed under Article 227 of the Constitution of India to set aside the orders dated 29.11.2017 made in R.E.A.Nos.63 & 64 of 2017 respectively in R.E.A.No.23 of 2012 in R.E.P.No.4 of 2012 on the file of the learned District Munsif, Mettur, Salem District.

For Petitioner : M.R.Jothimanian

COMMON ORDER

These civil revision petitions have been filed against the orders dated 29.11.2017 made in R.E.A.Nos.63 & 64 of 2017 respectively in R.E.A.No.23 of 2012 in R.E.P.No.4 of 2012 by the learned District Munsif, Mettur, Salem District.

2 The first respondent is plaintiff in a suit in O.S.No.324 of

2009, which was decreed in favour of her and 2nd respondent is defendant and the revision petitioners herein are third parties to the suit. The first respondent/plaintiff filed an execution petition in R.E.P.No.4 of 2012 for delivery of suit property, in which the revision petitioners had filed claim petition in R.E.A.No.23 of 2012 seeking to delete some portion of the description of suit properties and the said petition, after completion of evidence, was posted on 07.04.2017 for arguments. After several adjournments, the claim petition was posted finally on 16.08.2017 as no further adjournment. At that time the revision petitioners had filed two applications in I.A.Nos.63 & 64 of 2017 seeking to reopen R.E.A.No.23 of 2012 and to appoint Advocate Commissioner to prove that the revision petitioners are in possession and enjoyment of some portion of the suit properties. The EP Court after giving due opportunities to both the parties, dismissed the same by a common order dated 29.11.2017.

3 Aggrieved against the same, the revision petitioners are before this Court with these civil revision petitions.

4 The learned counsel appearing for the revision petitioners would submit that the revision petitioners are in possession and enjoyment of some portion of the suit properties and it is just and necessary to reopen R.E.A.No.23 of 2012 and appointment of Advocate Commissioner to prove the same. The learned District Munsif, Mettur, has erroneously dismissed both the applications.

5 Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

6 On a perusal of the records, it reveal that suit is of the year 2009 and 1st respondent being a decree holder, initiated execution proceedings in the year 2012, in which the revision petitioners had filed claim petition in R.E.A.No.23 of 2012. Susequently, the revision petitioners have filed two applications to reopen the above said claim petition and to appoint an Advocate Commissioner. This court is of the view that as rightly pointed out by the EP Court vide order dated 29.11.2017, Advocate Commissioner cannot be appointed for the purpose of proving the possession of the parties. Hence the EP Court had rightly dismissed both the applications

by the common order dated 29.11.2017. This Court does not find any illegality or infirmity in the order of the EP Court.

7 In view of the above, the civil revision petitions are dismissed. Further, since the execution proceedings is pending from the year 2012, the EP Court is directed to dispose of the same in accordance with law without influencing the order made in the present civil revision petitions within a period of three months from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed. No costs.

14.06.2018

Internet: Yes/No
Index: Yes/No
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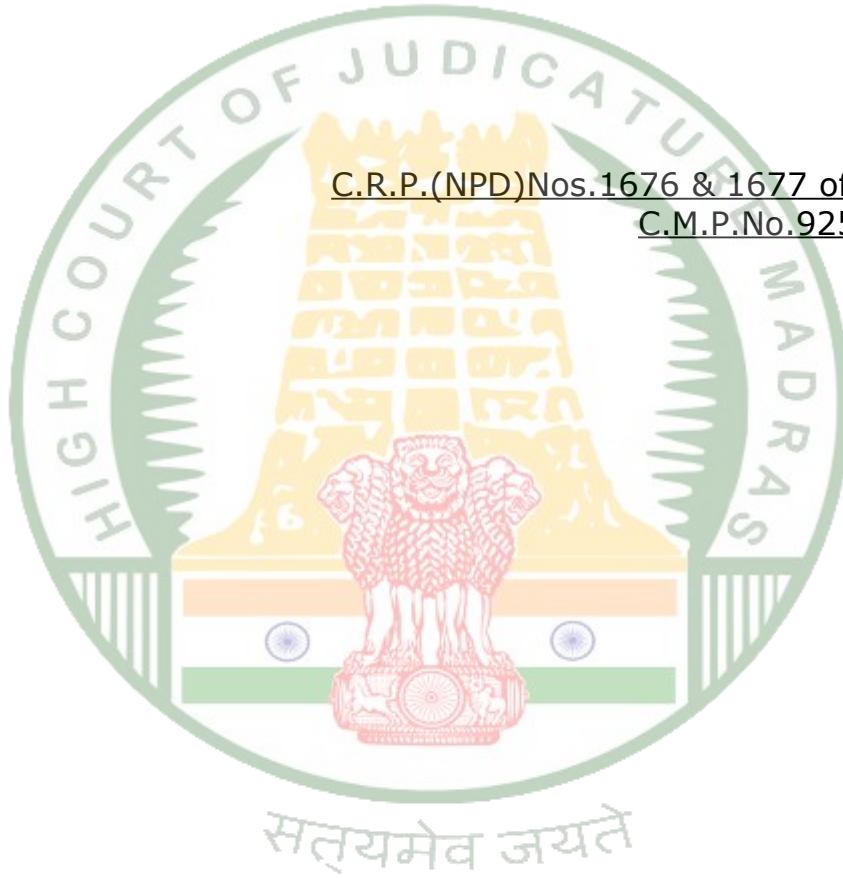
To
The District Munsif, Mettur,
Salem District.

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P.VELMURUGAN, J.,

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