

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2884 of 2014
& M.P.No.1 of 2014

R.Prabha

.. Petitioner

Vs.

C.R.Bagyalakshmi (deceased)
Rep. By her legal representative
R.Devasena
Rep. By her Power Agent,
C.Kanniappan

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 21.07.2014, made in E.P.No.512 of 2013 in R.C.O.P.No.457 of 2009 on the file of the Court of the XV Small Causes at Chennai.

For Petitioner : Mr.M.Murali

For Respondent : Mr.K.P.Ashok

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 21.07.2014, made in E.P.No.512 of 2013 in R.C.O.P.No.457 of 2009 on the file of the Court of the XV Small Causes at Chennai.

2.The petitioner/judgment debtor is the respondent and deceased respondent/decreed holder is the petitioner in R.C.O.P.No.457 of 2009 on the file of the XV Small Causes Court, Chennai. The deceased respondent filed the said RCOP for eviction of the petitioner on the ground of wilful default and owners occupation. R.C.O.P.No.457 of 2009 was ordered on 21.04.2010. Against that, the petitioner filed R.C.A.No.291 of 2010 on the file of the VII Small Causes Court, Chennai. The said R.C.A was dismissed by the judgment and decree dated 21.01.2013. The respondent filed E.P.No.512 of 2013 for delivery of possession of the petition premises.

3.The petitioner filed counter statement in E.P.No.512 of 2013 on 21.03.2014, stating that the respondent is not the owner of the petition premises. The petition premises belongs to Selva Vinayagar temple and further stated that the petitioner has filed Civil Revision Petition before this Court against the order of eviction.

4.The learned Rent Controller rejected the contention of the petitioner and allowed E.P.No.512 of 2013 on the ground that petitioner has not raised present plea in R.C.O.P that respondent is

not the owner of the property and only the temple is the owner of the property and the petitioner has also not given the Civil Revision Petition number or the stay order granted by this Court.

5. Against the said order dated 21.07.2014, made in E.P.No.512 of 2013 in R.C.O.P.No.457 of 2009, the petitioner has come out with the present Civil Revision Petition.

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

7. From the materials available on record and the impugned order of the learned Rent Controller, it is seen that the petitioner suffered order of eviction which was confirmed by the learned Appellate Authority. Even though the petitioner claims that he has filed Civil Revision Petition challenging the judgment of the learned Appellate Authority, no particulars of Civil Revision Petition or order of stay granted by this Court had been furnished before the Executing Court. In the grounds of the Civil Revision Petition also, the petitioner has mentioned the C.R.P.S.R. Number and has not furnished any details as to whether the Civil Revision Petition is

numbered or not, or any order was passed in the Civil Revision Petition. The learned counsel for the petitioner submitted that till today the Civil Revision Petition is not numbered. The learned Judge ordered delivery rejecting the contention of the petitioner on the ground that Executing Court cannot go beyond the decree. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 21.07.2014, made in E.P.No.512 of 2013 in R.C.O.P.No.457 of 2009.

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

20.03.2018

Index :: Yes/No
gsa

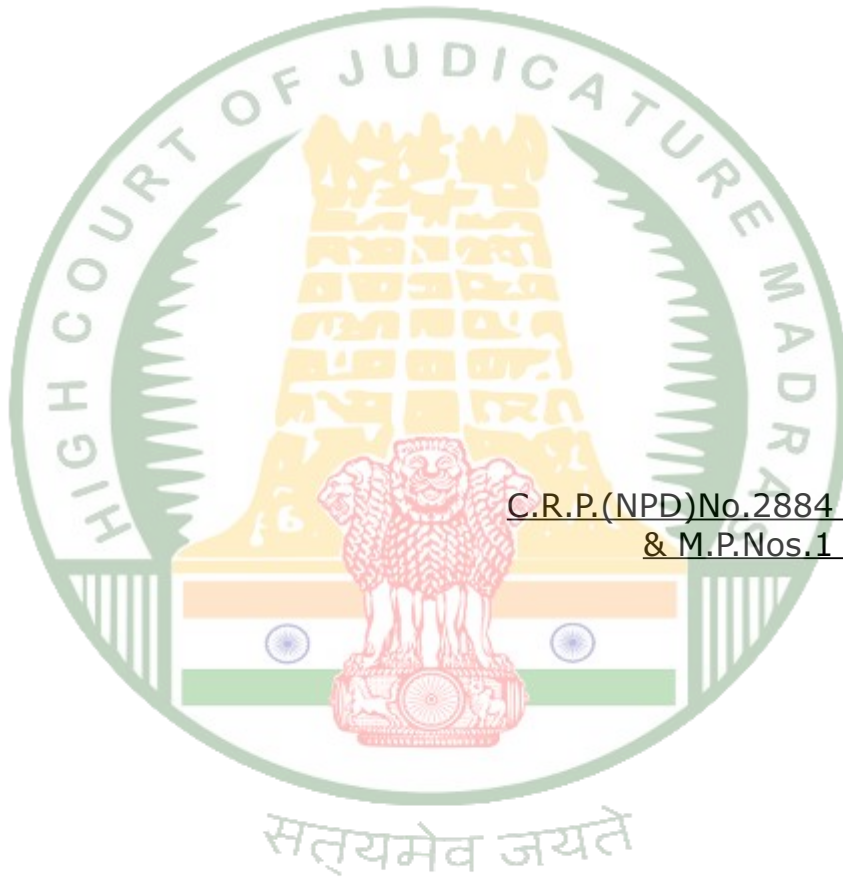
To

The XV Judge,
Small Causes Court,
Chennai.

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V.M.VELUMANI,J.

gsa



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