

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No. 3063 of 2017

P. Vaiyapuri ... Petitioner

Vs

S. Balachandar .. Respondent

PRAYER: This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure , to set aside the portion of the fair and decreetal order such as "half of the property to be ascertain with boundaries as well as extent" passed in REP No. 69 of 2015 in O.S. No. 594 of 2003 on the file of the Sub Court, Namakkal dated 28.06.2017 and consequently direct the Execution Court to order sale of 1/4 th share in the total extent dispose the above Execution Petition within the time fixed by this Court.

For Petitioner : Mr. R. Marudhachalamurthy

ORDER

This Civil Revision Petition is filed to set aside the portion of the fair and decreetal order such as "half of the property to be ascertain with

boundaries as well as extent" passed in REP No. 69 of 2015 in O.S. No. 594 of 2003 on the file of the Sub Court, Namakkal dated 28.06.2017 and consequently direct the Execution Court to order sale of 1/4 th share in the total extent.

2. The learned counsel for the petitioner would submit that the petitioner filed a suit in O.S. No. 594 of 2003 for recovery of money, against the respondent. The suit was decreed in favour of the petitioner on 11.01.2013. Hence, the petitioner filed REP No. 69 of 2015, seeking to bring the respondent's common half share of the schedule mentioned property, to realise the decree amount. In the aforesaid execution petition, the petitioner has stated that in the schedule mentioned property the respondent is entitled for half share, to the extent of 5.75 Acres of the land. The Execution Petition was allowed and permitted to auction the aforesaid property and the value was fixed in Clause 1 of the order. The petitioner being aggrieved with Clause 2 of the order, stating half of the property to be ascertained with boundaries as well as extent. Aggrieved by the aforesaid portion of the order, the petitioner has approached this Court by filing the present Civil Revision Petition.

3. On perusal of the records it is found that the petitioner himself has stated in the statement of the schedule mentioned property as undivided property and therefore Clause 2 is liable to be set aside. If the petitioner is aggrieved by Clause 2 of the order, it is open to him to file appropriate application before the court below to modify or review the said order. At this stage, this Court is not inclined to entertain the present revision petition.

4. Therefore, the Civil Revision Petition is disposed of, with liberty to file appropriate application. No order as to costs.

15.03.2018

Index: Yes/ No

Speaking Order/Non Speaking Order

[Issue order copy on 27.04.2018]

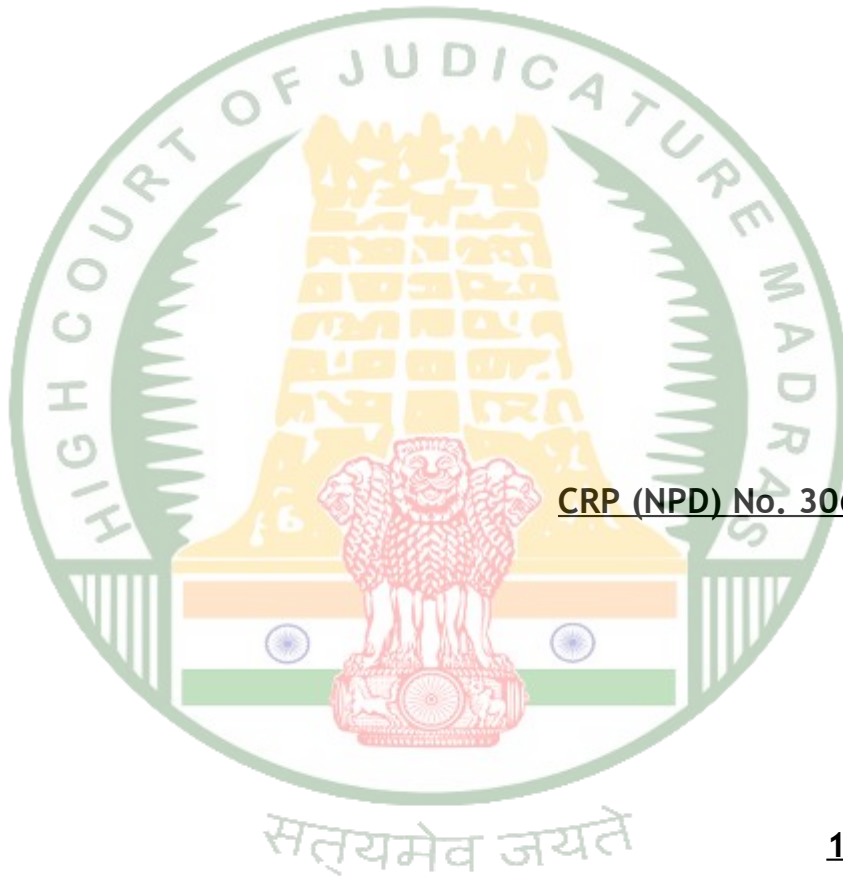
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To

The Subordinate Court,  
Namakkal.

D. KRISHNAKUMAR J.,

avr



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