

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No. 4079 of 2017

and

CMP. No.19128 of 2017

Narasimhaiah

.. Petitioner

Vs.

S. Lakshmanamurthy (deceased)

K. Pattabiraman (deceased)

1. Lakshminarasaiah

2. Ramamurthy

3. Suresh

4. Thiagaraj

5. The Commissioner
Hindu Religious and Charitable
Endowment (Admn.) Department
Uthamar Gandhi Road
Nungambakkam, Chennai-34.

6. The Joint Commissioner
Hindu Religious and Charitable
Endowment (Admn.) Department
Salem.

7. The Executive Officer/ Fit Person
Hindu Religious and Charitable
Endowment (Admn.) Department
Hosur.

.. Respondents

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed in I.A. No. 690 of 2017 in O.S. No. 11 of 2009 dated 27.10.2017 on the file of the Sub Judge, Hosur, Krishnagiri District by allowing the present civil revision petition.

For Petitioner : Mr. R. Jayaprakash

For Respondents : Mr. M.Vaidhiyanathan for R1 to R4

R5 to R7 - ex-parte before lower court

ORDER

This revision arises against the fair and decreetal order passed in I.A. No. 690 of 2017 in O.S. No. 11 of 2009 dated 27.10.2017 on the file of the Sub Judge, Hosur, Krishnagiri District.

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2. The learned counsel for the petitioner would submit that the respondents 1 to 4 herein, has filed an application under Order 41 Rule 5(2) of CPC, seeking for stay of further proceedings of the order dated 22.09.2017 passed in O.S. No.11/2009, till the certified copy of

the judgement and decree is furnished to the respondents. The court below considered the said application and granted an order of interim stay till 31.01.2018. Challenging the same, the petitioner has filed the revision before this Court.

3. According to the petitioner, aforesaid application has been filed by the respondents 1 to 4 without satisfying the conditions laid down under Order 41 Rule 5(2) of CPC and the court below has erroneously granted the order of stay. Further, the certified copy of the order is not ready and so filing of the present application is not maintainable either in law or on facts. Therefore, the order of the court below is liable to be set aside.

4. Per contra, learned counsel for the respondents 1 to 4, would submit that on apprehension that the petitioner would initiate steps to take right over the temple, they approached the court below and had obtained the order. Learned counsel further submitted that recording the statement of the petitioner that no execution petition would be filed until the certified copy of the judgment in the suit is made ready, the present revision petition may be disposed of.

5. Considered the facts and the submission of the learned counsel for both sides.

6. At this stage, the application filed by the petitioner, without satisfying the conditions prescribed under Order 41 Rule 5(2) of CPC is not maintainable. Therefore, recording the aforesaid submission of the learned counsel for the petitioner, the Civil Revision Petition is disposed of. Consequently, the connected M.P is closed. No order as to costs.

24.01.2018

Index: Yes/ No

Speaking Order/Non Speaking Order

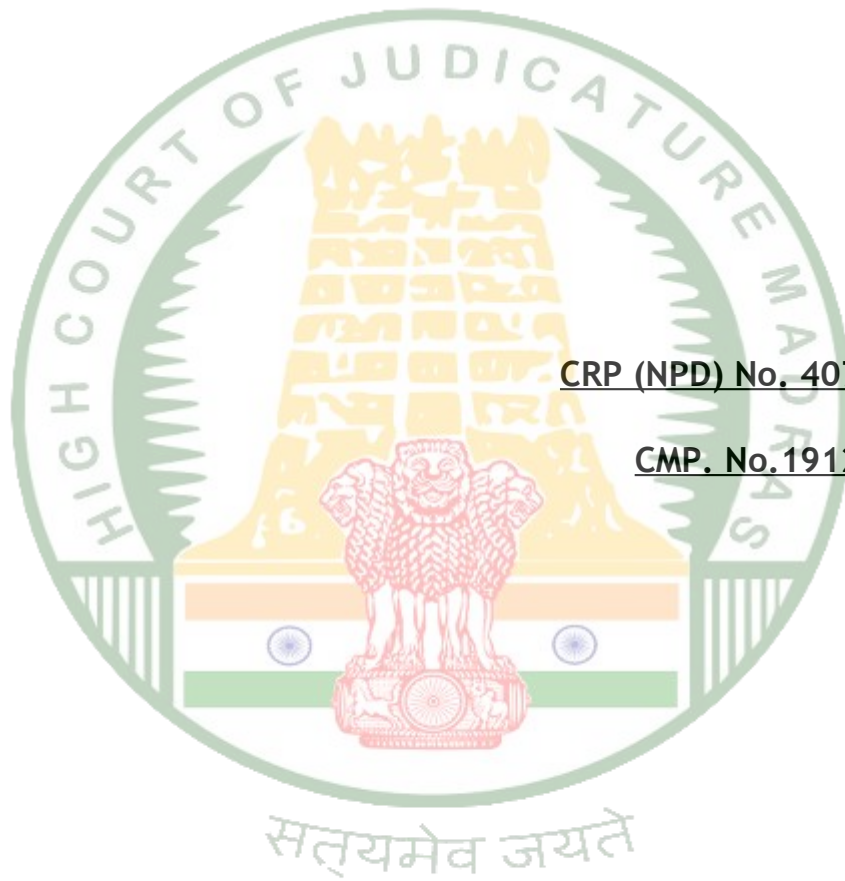
To

The Subordinate Judge,
Hosur,
Krishnagiri District.

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D. KRISHNAKUMAR J.,

avr



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