

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CRP (NPD) No.4194 of 2011
and M.P.No.1 of 2011

Dr.P.Selvaraj

... Petitioner

Vs

1.M.Chandrasekaran

2.P.Kandasamy

... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 07.03.2011 passed in Unnumbered I.A.No. of 2007 in O.S.No.350 of 2003 on the file of the Additional Subordinate Judge, Salem.

For Petitioner : Mr.P.Jagadeesan

For Respondents : Mr.P.Mani [for R1]
Mr.T.Murugamanickam [for R2]

ORDER

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A third party to a suit in O.S.No.350 of 2003 on the file of Additional Subordinate Court, Salem, had filed an application to set aside the exparte decree for specific performance. This petition was returned as not maintainable, challenging which, the third party has come forward with this petition.

2. A certain Chandrasekaran has laid a suit in O.S.No.350 Of 2003 against Kandasamy for specific performance and obtained an exparte decree. The revision petitioner is the brother of said Kandasamy, the defendant in the aforesaid suit. As he is the third party to the proceedings, the trial Court raised a issue as to the *locus standi* of the revision petitioner to have the exparte decree set aside.

3. Heard Mr.P.Jagadeesan, learned counsel for the petitioner and Mr.P.Mani, learned counsel for the first respondent and Mr.T.Murugamanickam, learned counsel for the second respondent.

4. The counsel for the first respondent would intervene to submit that on the same subject matter, another brother of Kandasamy had filed O.S.No.186 of 2004 on the file of Additional District Court [FTC-I], Salem for partition, in which the present revision petitioner is the party defendant. An application is also stated to have been filed for impleading the decree holder Chandrasekaran. Yet another suit in O.S.No.250 of 2004 is pending on the same subject matter before the same Court.

5. This Court finds adequate merit in the order passed by the trial Court and the petitioner is well advised to agitate his right in those pending suits. As a third party to the suit and as a party who is not a signatory to the agreement,

which was sought to be enforced in O.S.No.350 of 2003, he cannot maintain an application such as the one he has filed.

6. In the result, this petition is dismissed without costs. Consequently, connected miscellaneous petition is closed.

20.04.2018

ds

Index : Yes / No

Speaking Order / Non-speaking Order

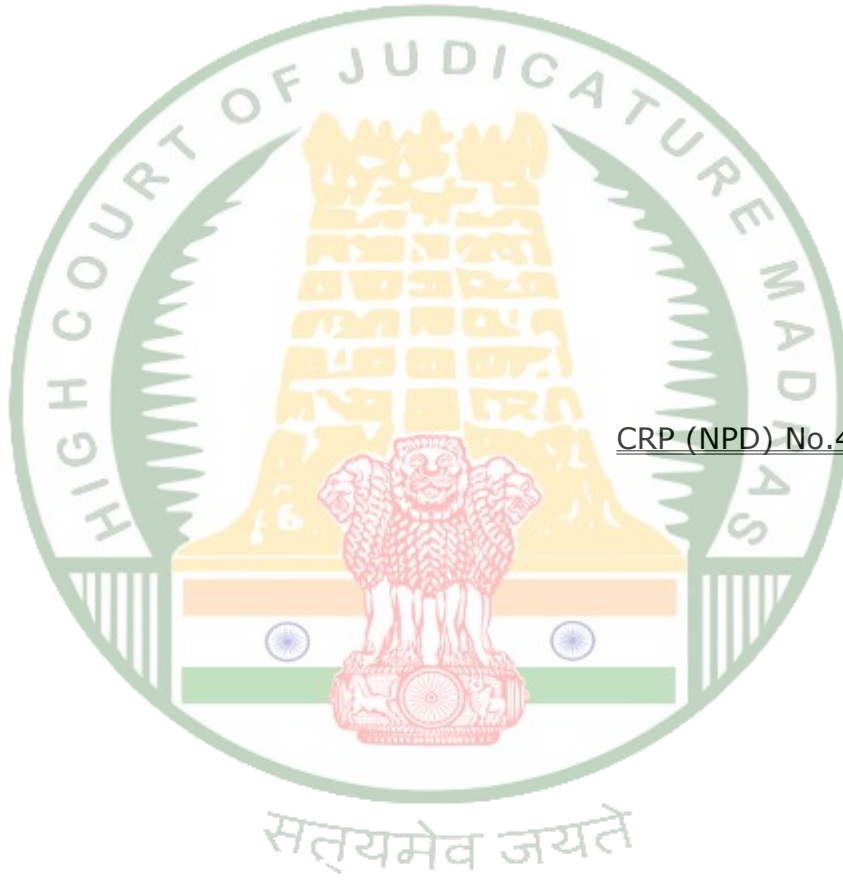
To :

The Additional Sub Judge

Salem.



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