

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No. 489 of 2018
and
CMP. No. 2557 of 2018

1. Ramaraj
2. Preethiba Priyadharshini .. Petitioners

Vs

T.E. Varadgarajan .. Respondent

PRAYER: This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the impugned and decretal order dated 22.12.2017 passed by the Principal District Munsif at Cuddalore in E.A. No.582 of 2017 in E.P. No.42 of 2017 in RCOP No.3 of 2013.

For Petitioners : Mr.V. Raghavachari
for Ms. Sri Priya
For Respondent : Mr.R. Gururaj

ORDER

This Civil Revision Petition is filed to set aside the impugned and

decreetal order dated 22.12.2017 passed by the Principal District Munsif at Cuddalore in E.A. No.582 of 2017 in E.P. No.42 of 2017 in RCOP No.3 of 2013.

2. The respondent had filed RCOP No.3 of 2013 seeking eviction against the petitioners, on the ground of willful default. The court below dismissed the said petition. Hence, the respondent went on appeal in RCA No.3 of 2016 before the Principal Sub Judge, Cuddalore. The Appellate Court passed an ex-parte order on 10.11.2016, allowing the appeal. Aggrieved by the same, the petitioners filed I.A. Nos. 17 and 18 of 2017 to set aside the ex-parte decree and to condone the delay in filing the said application. Based on the eviction order, the respondent filed E.P. No.42 of 2017 and the same was allowed in favour of the respondent. Hence, the petitioners filed E.A. No.582 of 2017 to stay the execution proceedings until the disposal of the Interlocutory Applications. The said application was dismissed. Hence, the present revision petition is filed before this Court.

3. According to the petitioners, if the execution proceedings is not

stayed by the Executing Court, the petitioners would be put to great hardship and hence seeks to set aside the order of the Execution court passed in E.P. No. 42 of 2017.

4. The learned counsel for the respondent fairly agreed that the I.A. Nos. 17 and 18 of 2017 are pending before the court below. However, the petitioner has filed the present revision petition, without prosecuting the appeal, only with an intention to drag on the proceedings. Therefore, the order passed by the court below is perfectly valid and the civil revision petition may be dismissed.

5. Considered the facts and circumstances of the case and heard the submission of the learned counsel for both the parties.

6. The learned counsel for the respondent strongly projected the conduct of the petitioner in delaying the execution proceedings, which was allowed by the Appellate Court. Taking into consideration the said fact and in order to give an opportunity to the petitioner, this court is inclined to pass the following order :-

1. The order passed in E.A. No.582 of 2017 in E.P. No.42 of 2017 in RCOP No.3 of 2013 by the court below is set aside and the application is allowed.
2. By consent of both the parties, the Appellate Court is directed to dispose of the I.A. Nos. 17 and 18 of 2017, within a period of two weeks from the date of receipt of a copy of this order.
3. The petitioners undertake to co-operate for the disposal of the said applications, without getting further adjournments.
7. The Civil Revision Petition is allowed, with the above direction. Consequently, the connected Miscellaneous Petition is closed. No costs.

16.02.2018

Index: Yes/ No

Speaking Order/Non Speaking Order

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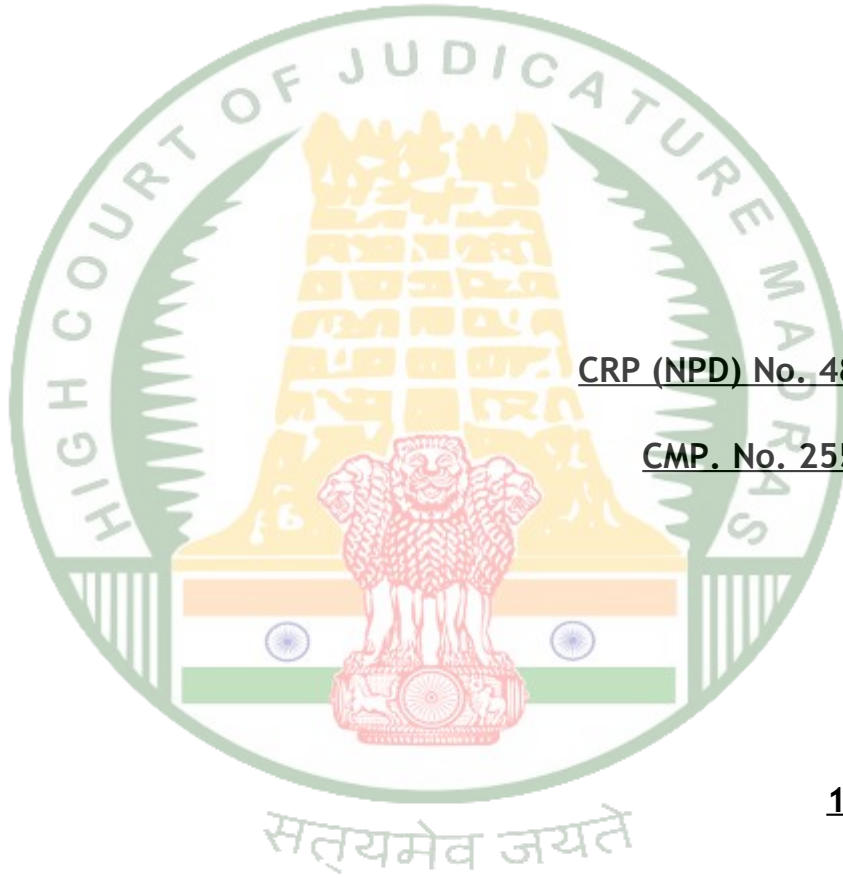
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To

The Principal District Munsif Court,
Cuddalore.

D. KRISHNAKUMAR J.,

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