

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(NPD).No.499 of 2018
and CMP.No.2595 of 2018

1.O.K.Shanmugham
2.Saranya
3.Minor Pratheesha
rep.by Father and Guardian O.K.Shanmugam
4.Rajamani .. Petitioners

Vs

Arumugham (died)
1.A.Namasivayam
2.Vijayakumari
3.Mohanavalli
4.Bhuvaneswari
5.Rajeswari
6.Sundaram .. Respondents

PRAYER

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and final order dated 29.01.2018 made in EA.No.57 of 2017 in EP.No.2 of 2009 in OS.No.300 of 2008 on the file of the Additional District Court, Fast Track Court No.IV, Bhavani, Erode.

For Petitioners : Mr.L.Mouli
for M/s.Zeenath Begum

ORDER

According to the revision petitioners, one, Arumugham has has filed an execution petition in EP.No.2 of 2009 for execution of the order passed in OS.No.300 of 2008. Against the order passed in OS.No.300 of 2008, the revision petitioners 1 to 3 have filed a Civil Revision Petition in CRP.No.4572 of 2013 and obtained the order of interim stay of further proceedings in the above EP for a limited period. Thereafter, the same was not extended. Pursuant to that, the respondents 1 to 5 have filed an application in EA.No.57 of 2017 in the above EP to direct the court amin to deliver the possession of the petition mentioned property, which was allowed. Against the aforesaid order, the revision petitioners have filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioners would submit that the aforesaid Civil Revision Petition was filed in the year 2013, wherein interim stay was granted for a period of limited period. Thereafter, the said interim order has not been extended. Meanwhile, the said CRP papers were misplaced. Hence, the revision petitioners gave a letter to the Registry to reconstruct the same. Therefore, the petitioner seeks to grant stay for further proceedings of the execution petition.

3. From the impugned order, it is seen that originally, the ex-parte decree was passed in the suit and the revision petitioners filed application in IA.No.35 of 2009 to set aside the ex-parte decree with a delay of 250 days, which was dismissed on 22.02.2011. Challenging the aforesaid order, the revision petitioners have filed a Civil Revision Petition and interim stay has been granted for a period of limited period. But the said interim order expired in the year 2013 itself. The revision petitioners have not taken steps to file appropriate application for extension of interim order. After four years, the revision petitioners have contended in the counter statement that the said Civil Revision Petition is pending before this Court. Admittedly, the aforesaid Civil Revision Petition is pending and interim order was not extended. Therefore, there is no warrants to interfere with the order passed by the court below.

4. The learned counsel for the revision petitioners seeks two weeks' time to take steps to approach the Registry to get an appropriate order from the High Court in the earlier Civil Revision Petition, in the event of the Civil Revision Petition is dismissed.

5. On the request of the learned counsel for the revision petitioners, the impugned order is kept abeyance for a period of one week from today.

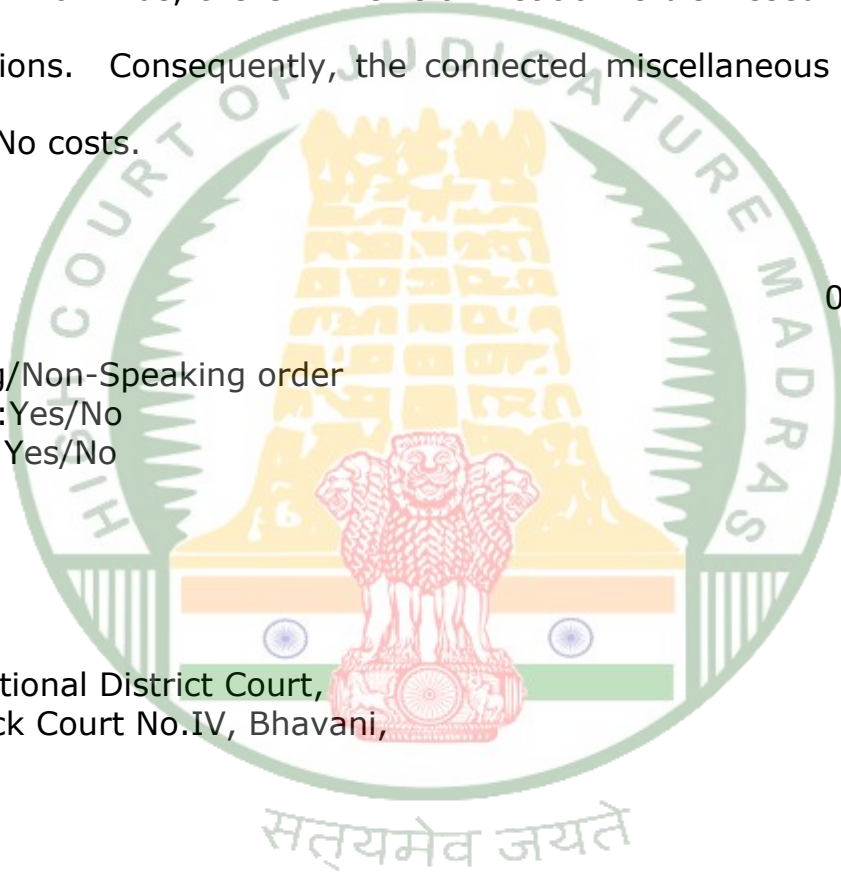
6. Thus, the Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

09.02.2018

Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No
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To

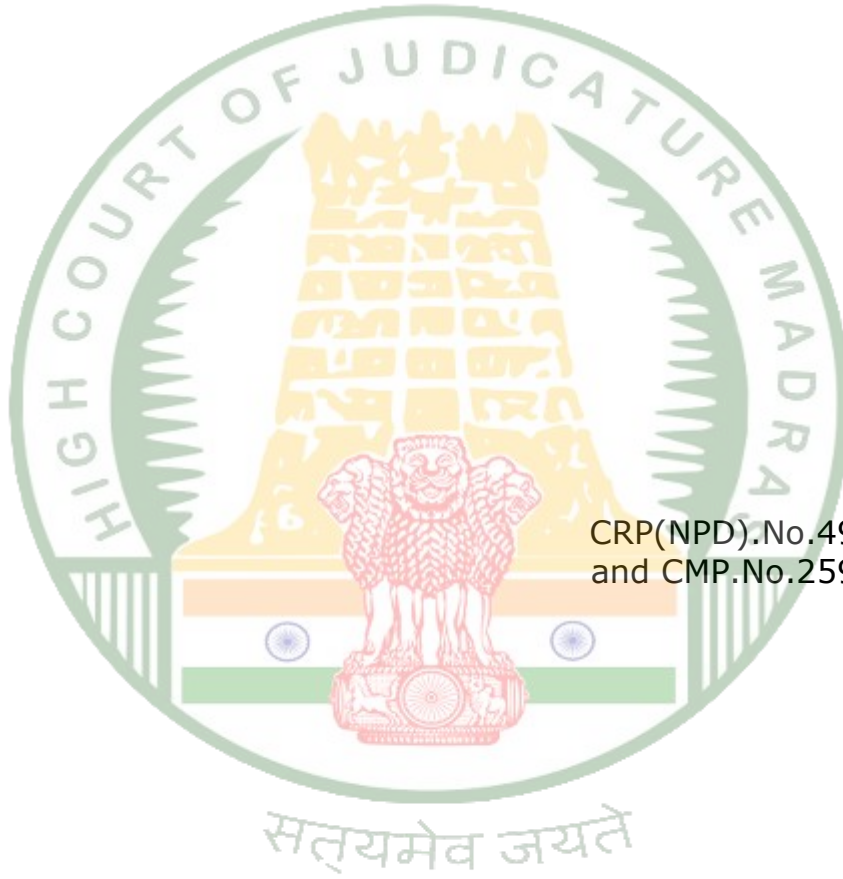
The Additional District Court,
Fast Track Court No.IV, Bhavani,
Erode.



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D. KRISHNAKUMAR J.,

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