

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.06.2018

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(NPD).No.1622 of 2016 and
C.M.P.No.8768 of 2016

1. N.Thilagavathi
2. N.Panbarasi
3. N.Vinnarasi
4. Minior N.Dinesh Kumar

... Petitioners

Vs.

P.Natarajan

...Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.10.2015 in E.A.No.44 of 2015 in R.E.P.No.2 of 2011 in O.S.No.83 of 2000 on the file of the Principal Subordinate Court, Krishnagiri.

For Petitioners : D.Shivakumaran

For Respondent :

ORDER

This civil revision petition has been filed against the order dated 27.10.2015 in E.A.No.44 of 2015 in R.E.P.No.2 of 2011 in O.S.No.83 of 2000 on the file of the Principal Subordinate Court, Krishnagiri.

2 The petitioners herein are the legal representatives of the first defendant in the suit in O.S.No.83 of 2000 and they filed E.A.No.44 of 2015 in REP.No.2 of 2011 in O.S.No.83 of 2000 under Section 47 of CPC to dismiss the E.P.No.2 of 2011. The learned counsel for the revision petitioners submitted that there is no mention about the description of properties in the final decree dated 01.03.2010. In the Delivery Warrant issued by the the learned Principal Subordinate Judge in D.No.781,782,783 of 2007 dated 13.04.2015 also there is no mention about the properties which has to be delivered. Hence the execution proceedings itself is not maintainable. The learned Principal Subordinate Judge dismissed E.A.No.44 of 2015 by an order dated 27.10.2015 stating that if at all the person aggrieved by the delivery warrant, he has to prefer revision before the High Court and not cannot approach this Court by way of EA.

3 Heard the learned counsel for the revision petitioners and perused the materials available on record.

4 On a perusal of the records, it is seen that there is no mention about the description of properties which has to be delivered and which has been delivered. The delivery warrant issued by the learned Subordinate Judge also does not speak about the description of the properties which has to be delivered. Under this circumstances, this Court is of the view that the delivery warrant issued by the EP Court dated 13.04.2015 is liable to be set aside.

5 Accordingly the delivery warrant issued by the learned Principal Subordinate Judge in D.No.781,782,783 of 2007 dated 13.04.2015 is hereby set aside. The EP Court is directed to take up the matter afresh and dispose of the same in accordance with law within a period of one month from the date of receipt of a copy of this order. The parties are directed to cooperate for speedy disposal of the execution proceedings. Consequently connected miscellaneous petition is closed. No costs.

14.06.2018

Internet: Yes/No

Note: Issue order copy on 18.06.2018

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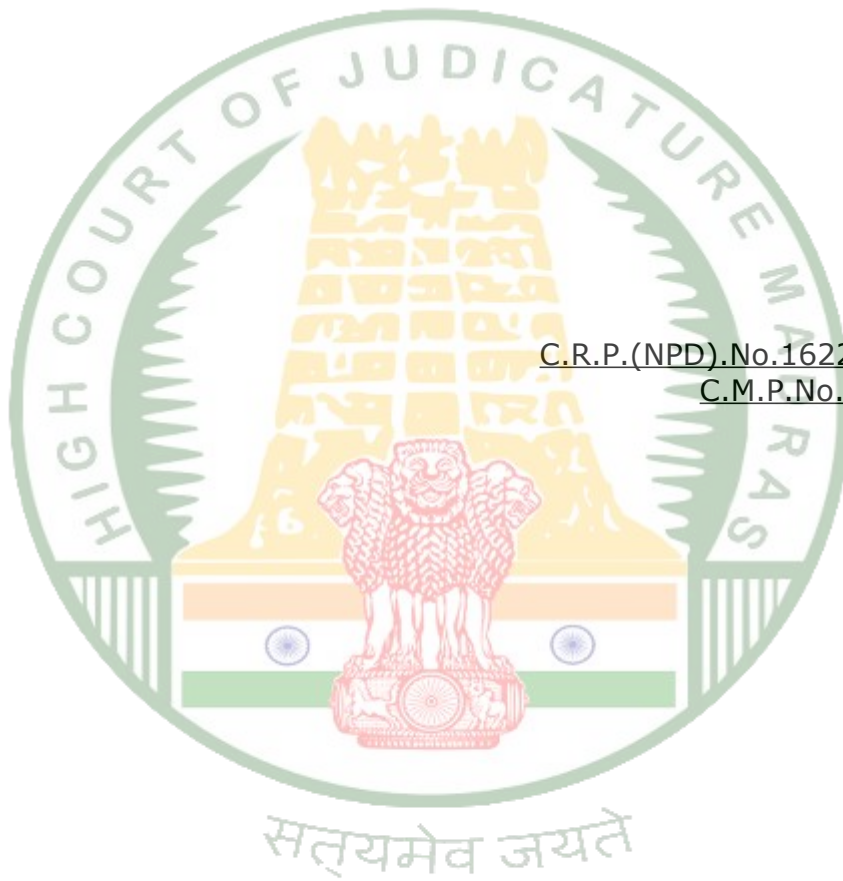
The Principal Subordinate Court,
Krishnagiri



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P.VELMURUGAN, J.,

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