

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2019

CORAM

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD).Nos.2321 and 2287 of 2008
and
M.P.Nos.1 and 1 of 2008

N.S.Ziayuddin Ahamed

...Petitioner
(in both CRP(NPD)s)

Vs.

Sellammal

...Respondent
(in CRP(NPD).No.2321 of 2008)

1.R.Raja @ Rajasekaran
2.Muthusamy
3.Saroja
4.N.K.Subramaniam

...Respondents
(in CRP(NPD).No.2287 of 2008)

PRAYER in CRP(NPD).No.2321 of 2008:

Civil Revision Petition filed under Section 115 of C.P.C, to set aside the order and decretal order dated 10.3.2008 made in R.E.A.No.381 of 2004 in O.S.No.20 of 1989 on the file of the Additional District Munsif Court, Namakkal.

PRAYER in CRP(NPD).No.2287 of 2008:

Civil Revision Petition filed under Section 115 of C.P.C, to set aside the order and decretal order dated 10.3.2008 made in R.E.A.No.526 of 2004

in R.E.P.No.344 of 1994 in O.S.No.20 of 1989 on the file of the Additional District Munsif Court, Namakkal.

For Petitioner : Mr.T.Dhanyakumar
(in both CRP(NPD)s)

COMMON ORDER

These civil revision petitions have been filed against the order of the Trial Court dismissing the applications to punish the respondents for the alleged violation of the decree and judgment passed against the Revision Petitioner.

2. The Revision Petitioner has originally filed a suit in O.S.No.20 of 1989 against One Bapan Rao and 4 others, defendants 1 to 5 therein, who have prevented the flow of light and air and also removed the tiles on the rafters of the scheduled mentioned property. The suit was decreed in favour of the plaintiff. Thereafter, the plaintiff has filed applications in R.E.A.Nos.381 and 526 of 2004 before the Additional District Munsif Court, Namakkal, against the respondents herein, for their arrest under contempt, while the respondents have damaged the wall of the plaintiff. The trial Court has appointed an Advocate Commissioner to find out the nature of the damage and except the Commissioner's report, no evidence was adduced by

the trial Court. Accordingly, the trial Court has dismissed the applications stating that the plaintiff has not clearly substantiated the facts that the respondents have willfully disobeyed the order of the trial Court. Challenging the same, the present revision petitions have been filed.

3. Admittedly, the suit has been decreed in favour of the plaintiff, subsequently, Execution Applications have been taken out by the plaintiff alleging that the respondents have damaged the wall by removing the rafters in the scheduled mentioned property. The Commissioner's report indicated that there was no damage in the plaintiff's property.

4. In view of the above facts and circumstances, I am of the opinion that the order of the trial Court does not warrant any interference, in fact the trial Court considering the entire aspects on merits, particularly, after obtaining the Commissioner's report, has dismissed the applications. Hence, the revision petitions lack merits and accordingly, the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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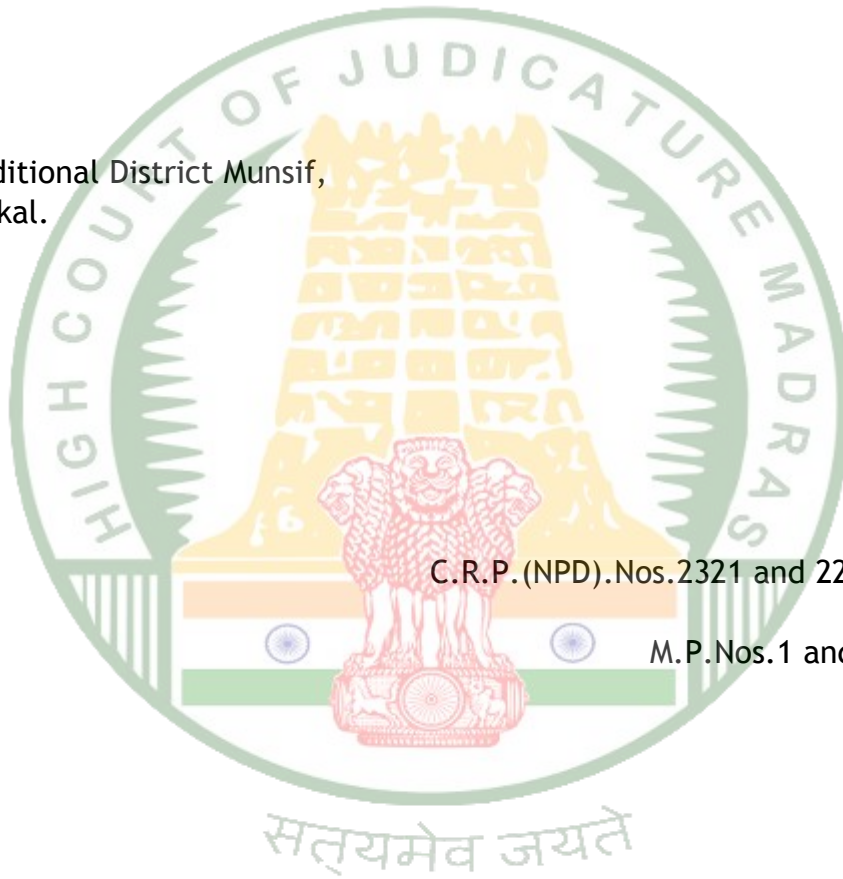
11.04.2019

Internet : Yes / No
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N.SATHISH KUMAR, J.
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To

1.The Additional District Munsif,
Namakkal.



C.R.P. (NPD).Nos.2321 and 2287 of 2008
and
M.P.Nos.1 and 1 of 2008

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