

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP(NPD).No.3199 of 2008 and
M.P.No.1 of 2008

K.Muthusamy ... Petitioner

Vs.

Dr.K.M.Viswanathan ... Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the orders dated 21.07.2008 in E.P.No.2 of 2007 in O.S.No.15 of 2004 passed by the Subordinate Judge, Mettur.

For Petitioner : Mr.P.Valliappan

For Respondent : No appearance

सत्यमेव जयते

ORDER

The present civil revision petition is filed against the orders passed in E.P.No.2 of 2007 in O.S.No.15 of 2004 on the file of the Subordinate Judge, Mettur.

2. The respondent/decree holder filed the above execution petition under Order XXI Rule 11 of the Code of Civil Procedure praying to arrest the present revision petitioner/decree holder to put him in civil prison till realisation of the decree amount. The learned Subordinate Judge, Mettur allowed the said application vide his fair and decreetal order dated 21.07.2008. Aggrieved over the same, present civil revision petition is filed.

3. Mr.P.Valliappan, learned counsel appearing for the civil revision petitioner contended that the civil revision petitioner/ decree holder died on 27.04.2019 and also filed a copy of death extract. He also drew the attention of this court to the orders passed by the learned Subordinate Judge, Mettur, wherein, it has been held thus.

"Heard both sides. The petitioner and his wife both are central Government pensioners. Hence means proved.

Arrest by 10.08.2007."

4. The above orders passed by the trial court is a nonspeaking order. The learned Subordinate Judge, Mettur has not also recorded evidence, whether the judgment debtor had sufficient means to pay the decree amount. In the facts and circumstances, the orders passed by

the learned Subordinate Judge, Mettur in E.P.No.2 of 2007 in O.S.No.15 of 2004 dated 21.07.2007 is liable to be set aside. However, since the civil revision petitioner is dead, nothing survives for further adjudication in the present civil revision petition.

4. In the result, the civil revision petition is closed. No costs. The connected miscellaneous petition is also closed.

22.07.2019

mst

Index : Yes/No

Internet : Yes/No

Speaking/non speaking

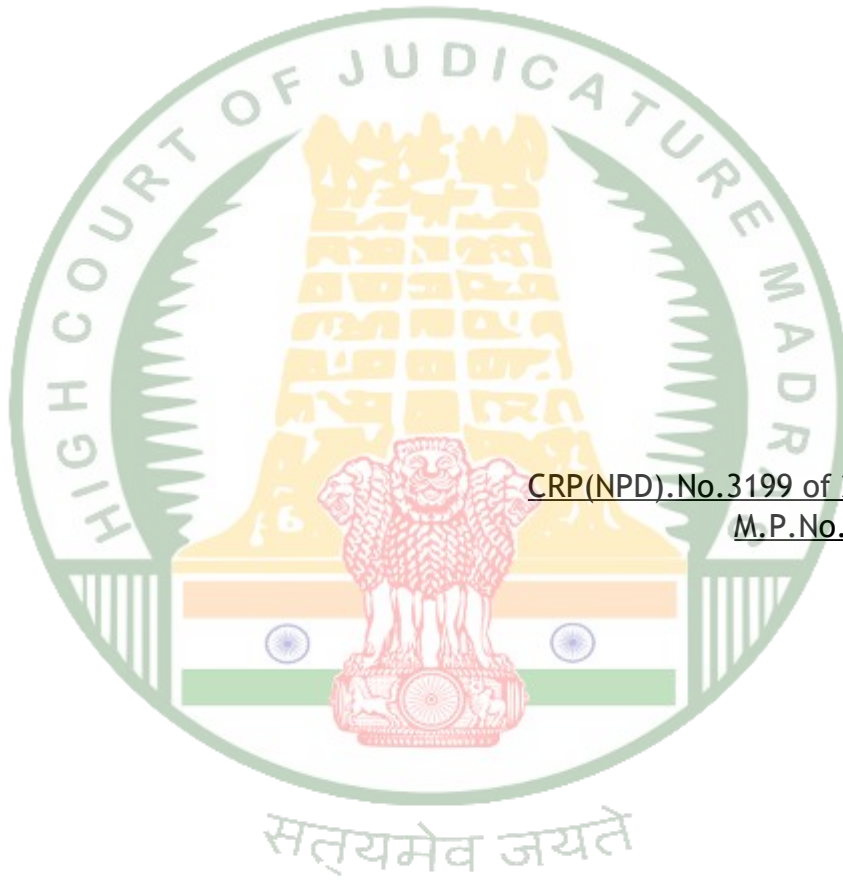
To

The Subordinate Judge, Mettur.



WEB COPY

R.HEMALATHA, J.,
mst



CRP(NPD).No.3199 of 2008 and
M.P.No.1 of 2008

WEB COPY

22.07.2019