

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.1698 of 2010

and

M.P.No.1 of 2010

1. Sambasivam
2. Harikrishnan
3. G.Ganesan
4. P.Ravichandran
5. M.Arokiarajan
6. V.R.Manogaran

Petitioners

Vs

1. Jaya Priya Chit Funds, Chittoor
Represented by its Proprietrix
Smt.R.Kasthuri
W/o Rajagopalan
Having Head office at
No.30. Main Road
Neyveli -2

2. N.Sattanathan
3. B.Gajendran
4. Sampath Kumar

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 12.03.2010 passed by Subordinate Court, Cuddalore in E.P.No.39 of 2008, in O.S.No.51 of 2006, on the file of Subordinate Court, Chittoor.

For Petitioners : Mr.D.Baskar

For Respondents : R1 – Mr.S.Lakshmipathy for
Mr.C.A.Anburaja
R2 – Not ready in Notice

R3 & R4 – Petitioner's counsel made an endorsement that these respondents are not necessary parties.

ORDER

The petitioners herein are the respondents in EP No.39 of 2008 in OS No.51 of 2006 on the file of Subordinate Court, Cuddalore. They have preferred this Civil Revision Petition challenging the docket order dated 12.03.2010 passed by the learned Subordinate Judge, Cuddalore in the above referred Execution proceedings.

2. First of all, when at the time of admitting the Civil Revision Petition, by an order dated 05.05.2010, this Court granted interim stay on a condition that the petitioner has to deposit Rs.2,00,000/- to the credit of EP No.39 of 2008, pending on the file of I Additional Subordinate Court, Cuddalore within a period of four weeks, from the date of receipt of copy of the order. Further, this Court issued a direction that failing to comply the order will lead to the dismissal of the interim stay granted by this Court. The learned counsel appearing for the petitioner fairly conceded that the said amount has not been deposited so far. In otherwise, before the Court below, based on the decree passed in OS No.51 of 2006, the respondents herein have initiated execution proceedings against the petitioners herein for the realization of decree amount. When the EP proceedings are pending for enquiry, the petitioners herein have not submitted their case before the Execution Court, after filing the counter.

In fact, the execution proceedings are initiated against these petitioners, only for attaching the salary.

3. On close scrutiny of Docket orders reveals the fact that in the above said execution proceedings, inspite of several opportunities given to the petitioners herein and also only after two years from the date of filing the execution proceedings, the learned Subordinate Judge has passed an order for attachment and directed to issue the pro order. In otherwise, the learned counsel appearing for the petitioner conceded that the decree had already passed against these petitioner and so far the same has not been set aside. Hence, in the said circumstances, it is the duty vested with the the Court to order for the attachment of the salary, only for the purpose of realizing the decree amount.

4. In view of the above discussions, I do not find any material irregularity in the impugned order passed by the learned Subordinate Court, Cuddalore. Accordingly, this Civil Revision petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

15.11.2019

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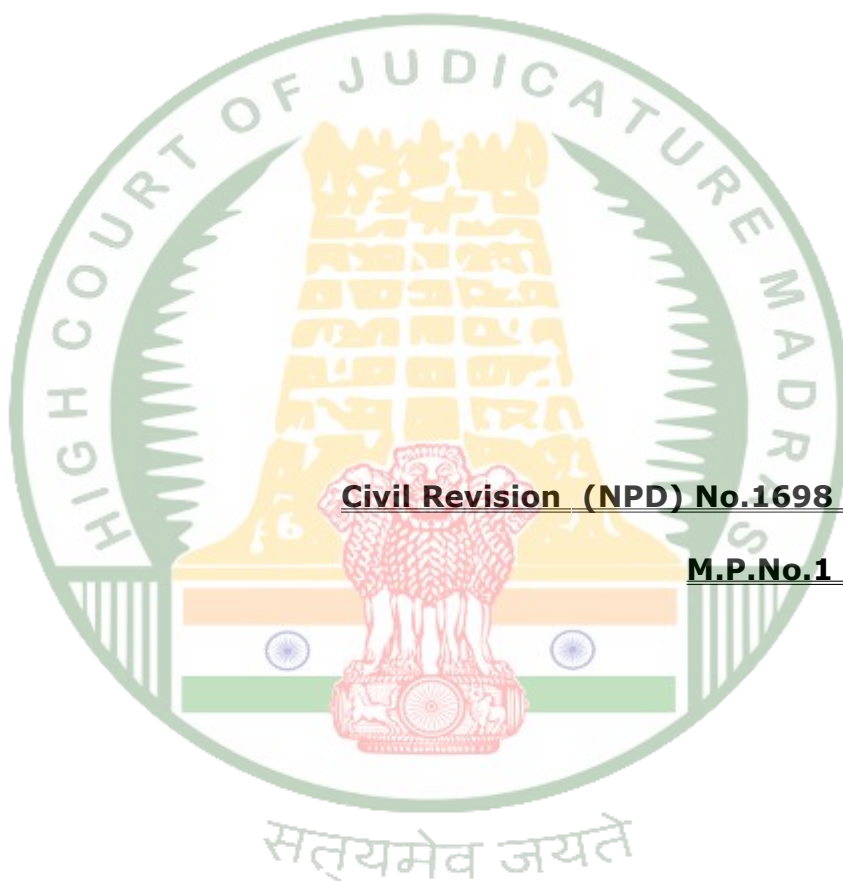
To

The Subordinate Court, Cuddalore

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R.PONGIAPPAN, J.,

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