

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(NPD).No.1309 of 2019

Janarthanam

... Petitioner

Vs.

Dr.M.Ezra Sargunam

... Respondent

Civil Revision Petition filed under Article 115 of the Civil Procedure Code pleaded to set aside the order passed in E.P.No.21 of 2004 in O.S.No.29 of 1995 dated 19.11.2018 on the file of the District Munsif Court, Tambaram..

For Petitioner

: M/s.E.P.Senniyan Giri

सततमे जयते
ORDER

The Civil Revision Petition has been filed to set aside the order passed in E.P.No.21 of 2004 in O.S.No.29 of 1995 dated 19.11.2018 on the file of the District Munsif Court, Tambaram.

2. The Execution Petition has been filed by the revision petitioner/decreed holder contending that the decree for permanent

injunction granted on 21.12.1998 has been disobeyed by the respondent herein/judgment debtor. It is seen that in the execution proceedings no details whatsoever has been stated as to how the respondent/judgment debtor had violated the decree for injunction.

3. In fact the respondent has filed an application under Section 47 of CPC in E.A.No.114 of 2017 in E.P.No.21 of 2004 in which he has submitted that he is in possession and enjoyment of the suit schedule property and that he has not encroached or trespassed into any portion belonging to the decree holder and the application filed under Section 47 of CPC has been dismissed. The decree holder had filed E.P and the said application has been dismissed by the learned District Munsif Judge, Tambaram in E.P.No.21 of 2004 on his file Tambaram on 19.12.2018 on the ground that no details with reference to the manner in which the decree has been disobeyed has been provided and the same has been challenged before this Court.

WEB COPY

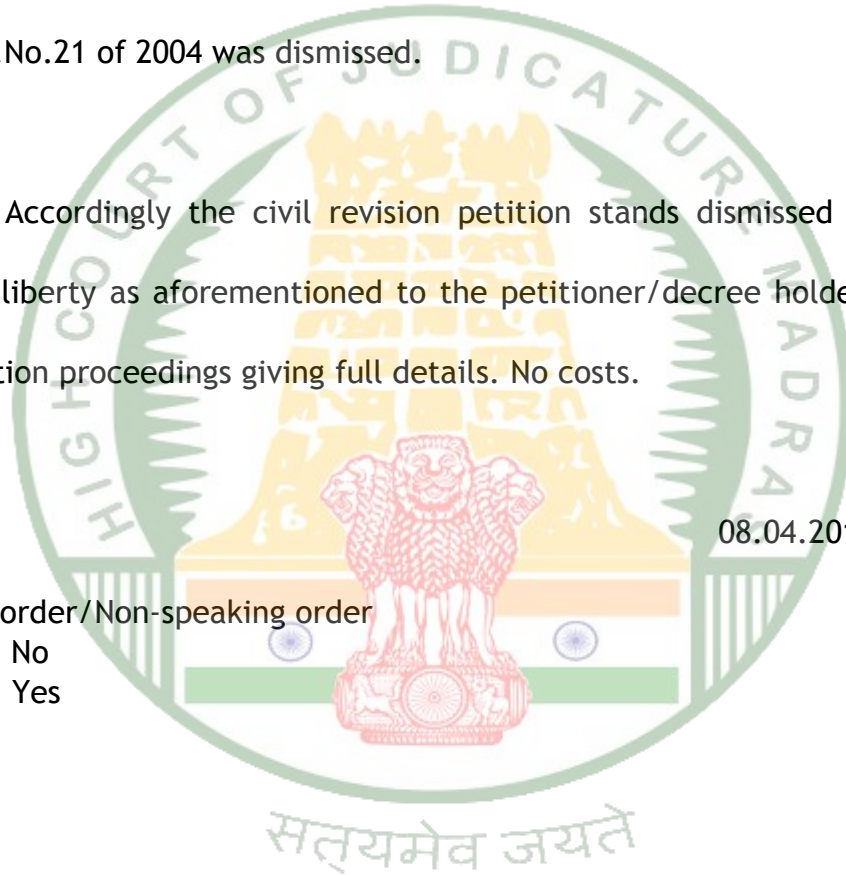
4. It is no doubt true that the learned Judge has dismissed the application stating that the revision petitioner/decreed holder has not given any details of the respondent's disobedience. However considering the fact that dismissal was on the ground of lack of clarity the learned Judge could

have returned the petition and given an opportunity to correct the error considering the fact that it is the last of the execution petitions. This civil revision petition is dismissed giving liberty to the petitioner to file a fresh petition giving full details about the disobedience relating to the period for which EP.No.21 of 2004 was dismissed.

5. Accordingly the civil revision petition stands dismissed however with the liberty as aforementioned to the petitioner/decreed holder to file an execution proceedings giving full details. No costs.

08.04.2019

Speaking order/Non-speaking order
Index : No
Internet : Yes
dpq



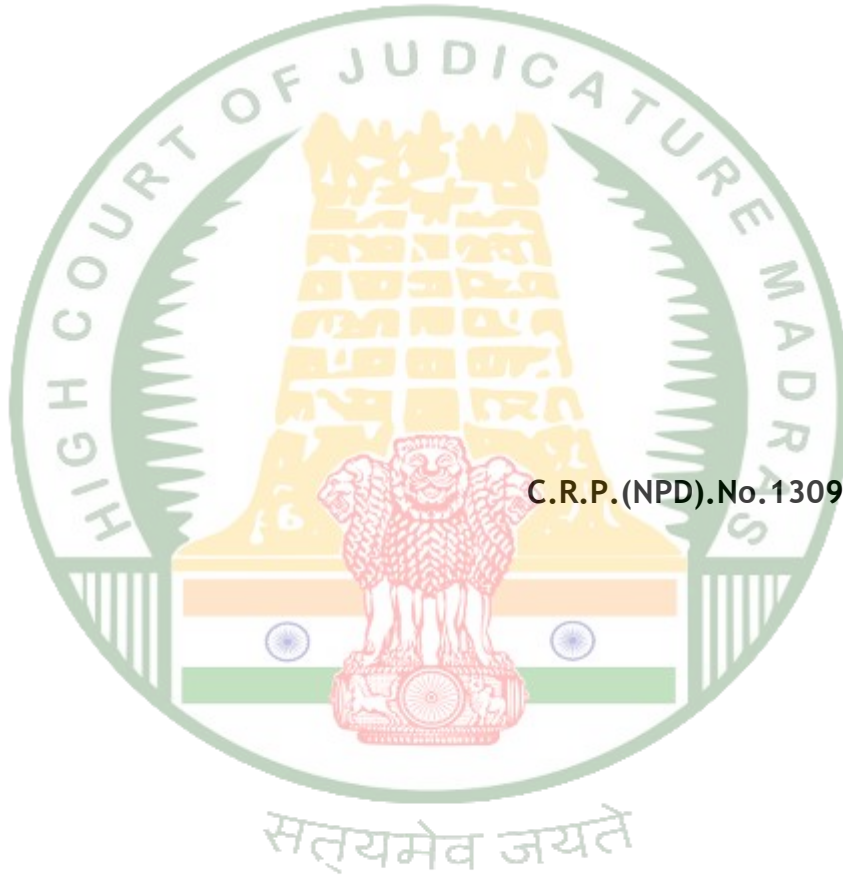
WEB COPY

To

The District Munsif Court,
Tambaram

P.T.ASHA. J.

dpq



C.R.P.(NPD).No.1309 of 2019

08.04.2019

WEB COPY