

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD)No.1774 of 2011
and M.P.No.1 of 2011

Rajagopal @ Gopal

..

Petitioner

versus

1.Govindammal
2.Dhanalakshmi
3.Gomathi
4.Manickam

..

Respondents

PRAYER: Civil Revision Petition has been filed under Section 115 of the Code of Civil Procedure, against the petitioner filed on 14.03.2011 made in unnumbered I.A.No. of 2011 in Rep.No.38 of 1999 on the file of the learned District Munsif, Omalur.

For Petitioner : Mr.P.Jagadeesan

For Respondent No.1 : Mr.B.Ravi

For Respondent Nos.2 to 4 : M/s.J.Soundari Chandrasekar

ORDER

This Civil Revision Petition has been filed as against the order of the Executing Court in returning the application filed to set aside the same on the ground that the matter has already reached finality and the award has been passed in Lok Adalat on 30.04.2004 itself.

2. The brief facts leading to the Revision are as follows:

2.1. The revision petitioner has obtained the decree for maintenance. To enforce the above decree and judgment, the Execution Petition is filed. In the meanwhile, one Rathinammal claiming the second wife of the revision petitioner has filed O.S.No.77 of 2004 seeking declaration and she has also filed claim application in the present Execution Petition.

2.2. At this stage, it appears that all the disputes have been referred to Lok Adalat for settlement. After hearing the parties, the Lok Adalat has passed an award on 30.04.2004 in terms of compromise. The award has been passed to the fact that some of the properties have to be transferred to the decree holder, namely, the first wife and children.

2.3. In the meanwhile, the Execution Petition was proceeded, as if, no settlement was arrived, the property was brought for sale and put into auction and purchased by one Kulandaiammal for a sum of Rs,1,01,000/- and she being the successful bidder on 14.03.2011. Therefore, the revision petitioner has filed an affidavit to reject the Execution Petition. It appears that the sale has not been confirmed.

2.4. At this stage, the revision petitioner has filed an application to dismiss the Execution Petition on the ground that the settlement has arrived at between the parties in Lok Adalat. However, the above application stands returned on the ground that already the property was sold and hence, this petition is not maintainable.

3. Aggrieved over the above said order, the revision petitioner is before this Court with the present Civil Revision Petition.

4. Heard the learned counsel appearing for the revision petitioner as well as the learned counsels appearing for the respondents.

5. The learned counsels appearing for the respondents fairly submitted that the order is a non-speaking order.

6. I have perused the order of the trial Court.

7. Though the auction was conducted on 14.03.2011, this Court has granted stay on 04.05.2011 for further proceedings and hence, it is very clear that the sale is not confirmed. Therefore, this Court is of the view that

no further proceedings in Execution Petition is required. The Executing Court shall take into account the settlement arrived at between the parties and also take into consideration of the fact that the sale has not been confirmed. Further, the trial Court is directed to take the application on file and number the same, till such decision is taken in the application, on merits, the sale shall not be confirmed and the Executing Court has also take into consideration of the fact that whether the parties have discharged their obligations agreed before the Lok Adalat.

8. In the result, the Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

01.03.2019

Speaking Order/Non Speaking Order

Index : Yes / No

Internet : Yes

sri

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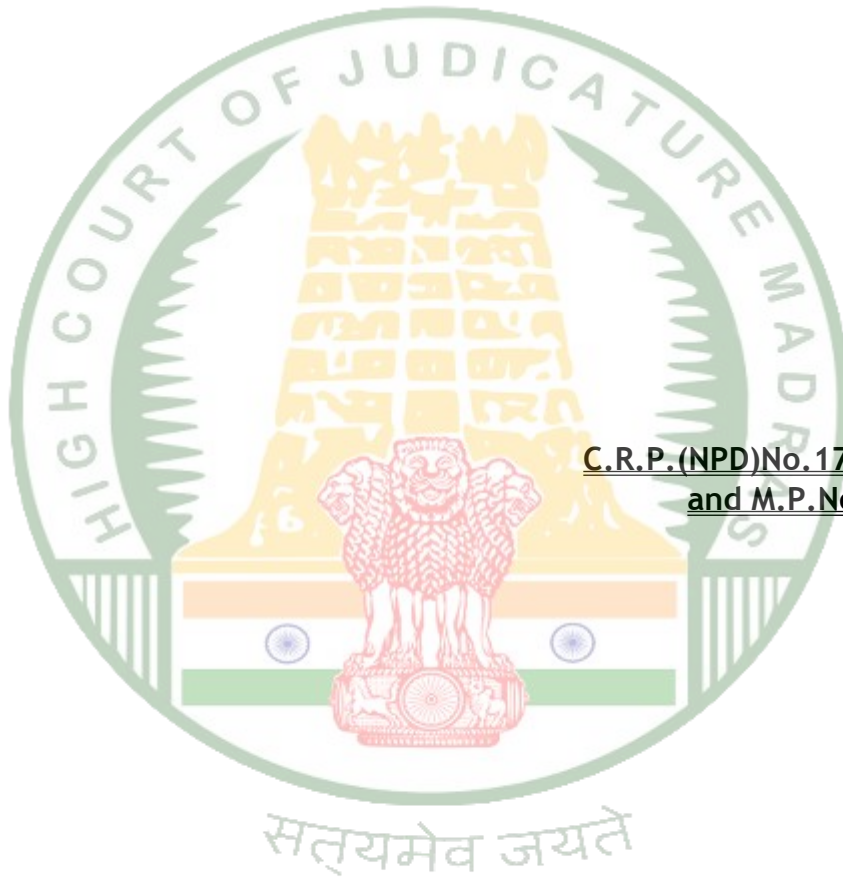
To

The District Munsif,
Omalur.



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N.SATHISH KUMAR, J.,
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C.R.P.(NPD)No.1744 of 2011
and M.P.No.1 of 2011

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