

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2019

CORAM :

THE HON'BLE MR. JUSTICE N. SATHISH KUMAR

C.R.P. (NPD) No.268 of 2011

and

M.P.No.1 of 2011

- 1.Naga Sathish Kumar
- 2.Rathina (Minor)
- 3.Indira (Minor)

... Revision Petitioners

[Petitioners 2 & 3 are represented
by the 1st petitioner Naga Sathish Kumar]

Vs.

- 1.Anvar Basha
- 2.John Basha
- 3.Piyari Begum
- 4.Kabira
- 5.Herifan (Minor)
- 6.Faran Basha (Minor)

... Respondents

[Respondents 5 & 6 are represented by
father and next friend Anvar Basha
(1st respondent herein)]

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed by the learned Principal Subordinate Judge, Puducherry in E.P.No.8 of 1998 in O.S.No.77 of 1991, dated 07.01.2011, ordering delivery of property.

For Petitioners : Mrs.S.Ambigai
for Mr.S.Sundaresan

For Respondents

R1 : Died (Steps due)

R2 to R4 : No appearance

ORDER

The revision has been filed against the order of the Execution Court (Principal Subordinate Court at Pondicherry) in E.P.No.8 of 1998 in O.S.No.77 of 1991, ordering delivery of the suit property to the respondents.

2.The respondents are the Decree Holders in the suit in O.S.No.77 of 1991 on the file of the Principal Subordinate Court at Pondicherry. The suit property was put into Court-auction, in execution of the decree in the aforesaid suit. The wife of the 1st respondent had been declared as successful auction purchaser and sale certificate had also been issued. The respondents, being the legal heirs of the wife of the 1st respondent, filed the Execution Petition in E.P.No.8 of 1998 for delivery of property. The Execution Court has passed an order of delivery, as against which, the present revision has been filed by the legal heirs of the Judgment Debtor.

3.It is the main contention of the learned counsel for revision petitioners that the suit property was granted by way of assignment Patta in

favour of the father of the petitioners by the Government of Puducherry. As per the terms and conditions of the assignment, the property cannot be sold. Hence, the learned counsel would contend that the order of the Execution Court, ordering delivery is not sustainable under law.

4.At the outset, the contention of the learned counsel cannot be countenanced for a simple reason that, if at all, there is any violation of the terms and conditions of the assignment, it is for the Government to take appropriate action and not for the Judgment Debtor or her legal heirs. Admittedly, the property was sold in Court-auction and the wife of the 1st respondent had been declared as a successful purchaser and sale certificate had also been issued.

5.Hence, I find no error or illegality in the order of the Execution Court, made in E.P.No.8 of 1998 in O.S.No.77 of 1991. It is made clear that, if there is any violation of the terms and conditions of the assignment, it is for the Government to take action on it.

6.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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22.03.2019

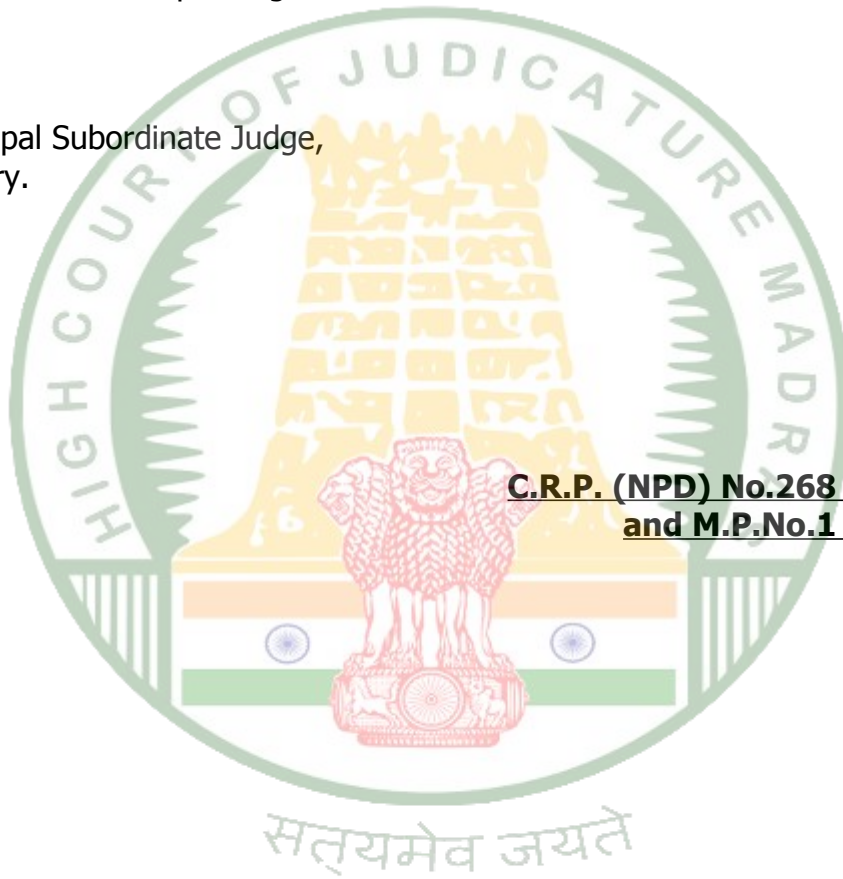
N. SATHISH KUMAR, J.

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Index : Yes / No
Internet : Yes / No
Speaking order / Nonspeaking order

To

The Principal Subordinate Judge,
Puducherry.



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