

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.03.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD)Nos.2811 and 1874 of 2011
and M.P.No.1 of 2011

1.Rabiyathul Fagiria
2.Meharaj Bagum
3.Basudeen
4.Mohamed Rafi
5.Sultan Sikkinthar

..

Petitioners
[in both C.R.P.s]

versus

Ansari

..

Respondent
[in both C.R.P.s]

COMMON PRAYER: Civil Revision Petitions have been filed under Section 115 of the Code of Civil Procedure, against the order dated 01.02.2011 made in E.P.No.79 of 1998 in O.S.No.92 of 1976 and E.A.No.180 of 1998 in E.P.No.72 of 1998 in O.S.No.92 of 1976 respectively on the file of the learned Subordinate Judge, Chidambaram.

For Petitioners
[in both C.R.P.s]

: Mr.A.Muthukumar

For Respondent
[in C.R.P.(NPD)No.1874 of 2011]

: Mr.S.K.Rakhunathan

COMMON ORDER

These Revisions have been filed as against the order of the Execution Court dismissing the application in E.A.No.180 of 1998 filed by the legal heirs of the decree holder to continue the Execution Proceedings in E.P.No.79 of 1998. The Execution Court has dismissed the application mainly on the ground that the second petitioner has prosecuting the application on behalf of the petitioners 3 to 5 as their power agent, since she has not produced any power deed, her application to implead them in the Execution Proceedings was dismissed. Consequently, the Execution Petition was also dismissed by the Execution Court. As against which, the revision petitioners are before this Court with the present Revisions.

2. Heard the learned counsel appearing for the revision petitioners and the learned counsel appearing for the respondent.

3. The learned counsel appearing for the revision petitioners has brought to the notice of this Court that the second petitioner has already filed applications in E.A.Nos.177 to 179 of 1998 in O.S.No.92 of 1976 seeking permission to the Execution Court to act as power agent to the legal heirs,

namely, petitioners 3 to 5. The above applications were ordered by the Execution Court on 25.11.1998 and permitted the second petitioner to act as power agent to the petitioners 3 to 5.

4. When the Execution Court has already entertained the applications to recognise the second petitioner as power agent of the other legal heirs but at the time of impleading application, the Execution Court has ignored the earlier orders and simply dismissed the application.

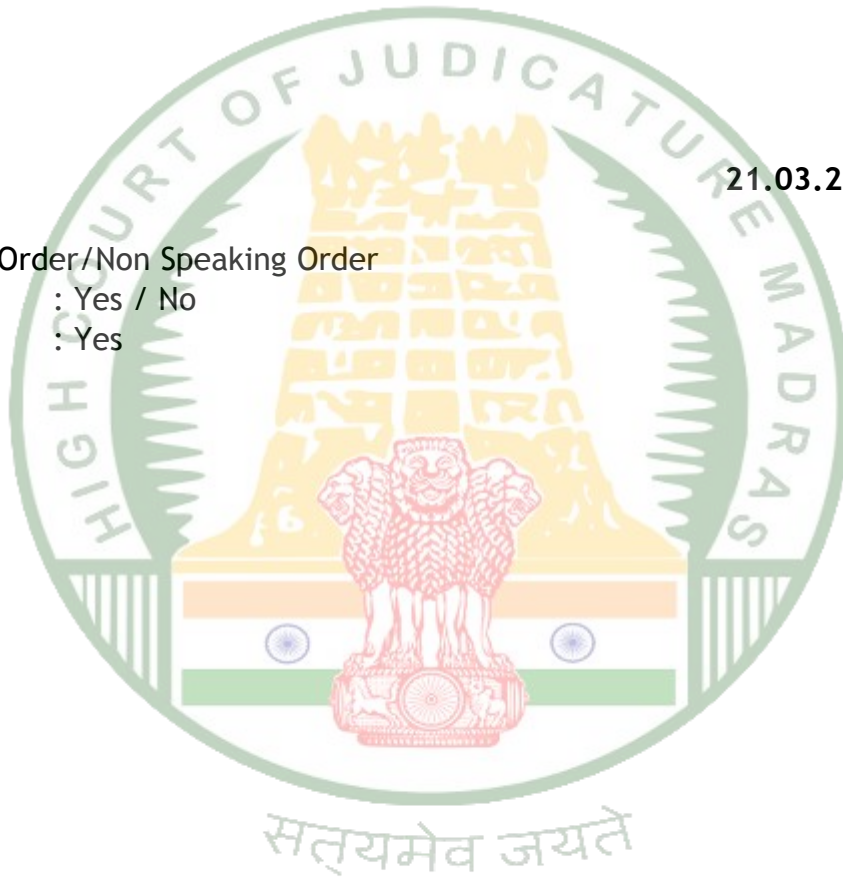
5. In my view, the Execution Court having permitted the second petitioner in the Execution Application to represent the petitioners 3 to 5 in the capacity of power agent ought not to have dismissed the application filed to bring the legal heirs of the original decree holder and hence, the order of the Execution Court passed in E.A.No.180 of 1998 in E.P.No.72 of 1998 in O.S.No.92 of 1976 dated 01.02.2011 is hereby set aside. Consequently, the order of the Execution Court passed in E.P.No.79 of 1998 in O.S.No.92 of 1976 dated 01.02.2011 is also hereby set aside. The Execution Court is directed to dispose of the Execution Petition, within a period of six months from the date of receipt of a copy of this order.

6. With these observations, both the Civil Revision Petitions are allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

21.03.2019

Speaking Order / Non Speaking Order
Index : Yes / No
Internet : Yes

sri



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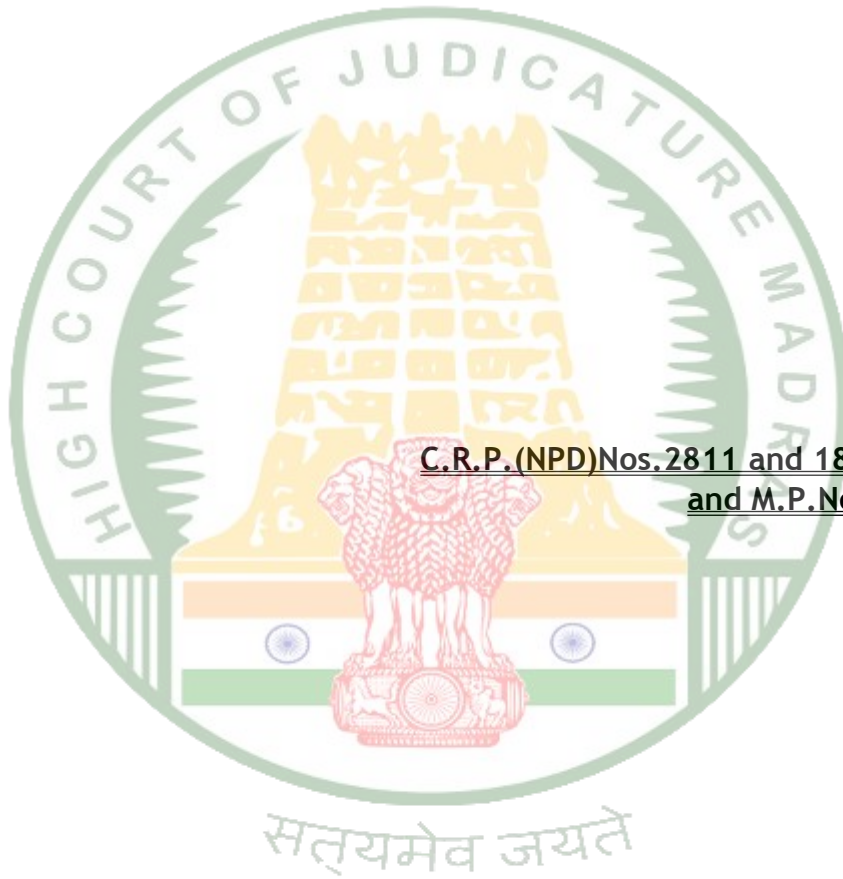
To

The Subordinate Judge,
Chidambaram.



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N.SATHISH KUMAR, J.,
sri



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