

IN HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	30.07.2019
Pronounced On	20.08.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(NPD).No.1341 of 2015

and

M.P.No.1 of 2015

1.Thiruvazhagan

2.Thirumurugan

... Petitioners

VS

1.Annamalai

Janakiraman (died)

2.Anjilakshmi

3.Indumathi

4.Suganthi

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the proceedings in O.S.No.70 of 2009 on the file of the learned Principal Subordinate Judge, Cuddalore as the proceedings are illegal and nonest in the eye of law.

For Petitioners : Mr.N.Suresh

For R1 : Mr.S.Suresh for
M/s.T.Srinivasaraghavan & Accociates

For R2 to R4 : No appearance

ORDER

The 1st respondent filed O.S.No.70 of 2009 on 17.06.2009 before the Principal Sub-Court, Cuddalore against the petitioner's vendor Janakiraman.

2.The said suit was filed for specific performance to execute a sale deed pursuant to an unregistered sale agreement dated 03.04.2009 allegedly executed between the 1st respondent and the sole defendant Janakiraman.

3.The petitioners are the 3rd party purchasers of the suit schedule property from the sole defendant Janakiraman (since the deceased) in O.S.No.70 of 2009. The sole defendant Janakiraman

had earlier executed a sale deed in favour of the petitioners on 13.04.2009 in respect of the suit schedule property.

4.The other respondents are the legal representatives of the deceased sole defendant Janakiraman.

5.The 1st respondent had filed the above suit before the Principal Sub-Court, Cuddalore even though the suit schedule property was situated within the jurisdiction of the Panruti Sub-Court. It was filed without impleading petitioners.

6.In the said suit, the sole defendant Janakiraman remained exparte and thereafter an ex-parte decree was passed by the court on 18.08.2009. Thereafter, the sale deed was executed by the learned Sub-Judge, Cuddalore on 24.09.2010. Thereafter, the 1st respondent filed E.A.No.161 of 2011 in O.S.No.70 of 2009 to transfer above suit for further proceedings before the Sub-Court, Panruti. This was also allowed by the learned Principal Sub-Judge, Cuddalore.

7.Thereafter, the 1st respondent filed E.P.No.71 of 2011 before

the Sub-Court, Panruti to deliver the suit schedule property as per the aforesaid sale deed. In the aforesaid proceedings, petitioners/3rd parties filed E.A.No166 of 2011 in O.S.No.70 of 2009 to determine their rights under Order 21 Rule 97/101 of CPC along with E.A.No.163 of 2011 to stay the proceedings in E.P.No.71 of 2011.

8.E.P.No.71 of 2011 filed by the 1st respondent was dismissed for non-prosecution on 11.11.2013. On the same day, the applications filed by the petitioners were also dismissed in view of dismissal of E.P.No.71 of 2011.

9.Though, the certified copies of the order seem to indicate E.A.Nos.166 & 167 of 2011 there is some confusion and appear to have been used interchangeably. Therefore, I am not referring to these numbers while passing the order in the present Civil Revision Petition.

10.The petitioners have filed the present Civil Revision Petition to strike out the proceedings in O.S.No.70 of 2009 on the file of the learned Principal Subordinate Judge, Cuddalore on the ground that the aforesaid suit filed before Principal Sub-Court, Cuddalore

without jurisdiction and was decreed ex-parte on 18.08.2009 pursuant to which the sale deed was executed on 24.09.2010 in favor of the 1st respondent with undue alacrity.

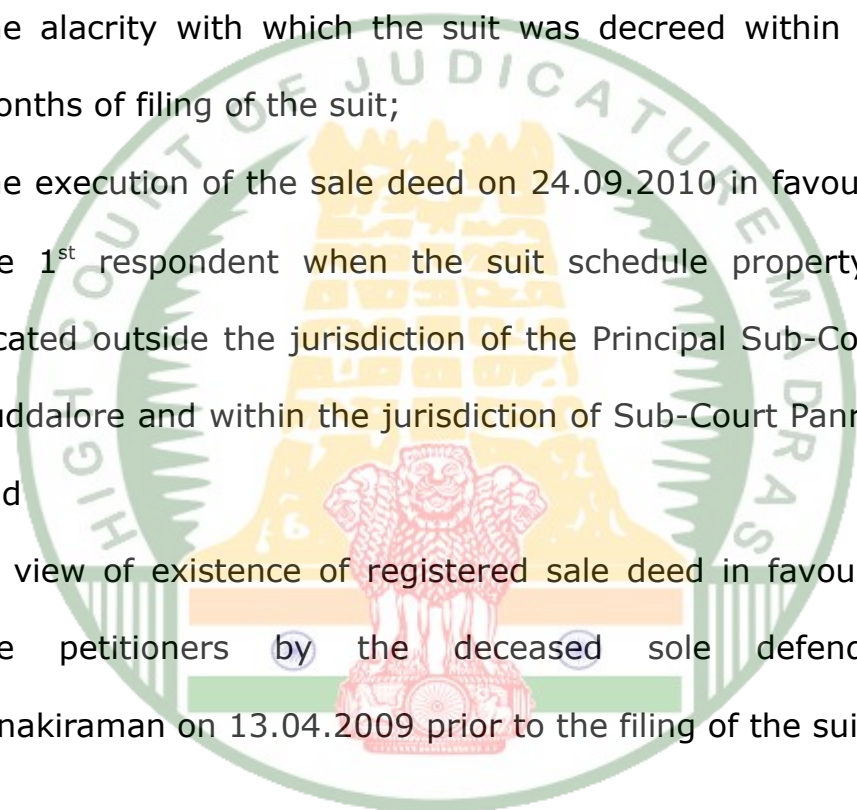
11.Further, after passing orders without jurisdiction, at the stage of taking delivery of the suit schedule property, permission was sought for to transfer the case to Sub-Court, Panruti which was also granted to make it, seem as if proceedings were in order.

12.E.P No.71 of 2011 was filed before Sub-Court, Panruti for taking delivery of possession of the suit schedule property but was abandoned as soon as the petitioners filed E.A.No.166 of 2011 to record their objections vide E.A.No.166 of 2011.

13.The learned counsel for the 1st respondent submitted that the present Civil Revision Petition is liable to be dismissed. Both the parties argued at length to justify their rival stands and submitted case laws to substantiate the same.

14.I have considered the arguments advanced on behalf of the petitioners and the 1st respondent/plaintiff. The manner in which

the proceedings were initiated before the Principal Sub-Court, Cuddalore does not inspire confidence for the following reasons:-

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- i. The alacrity with which the suit was decreed within two months of filing of the suit;
 - ii. The execution of the sale deed on 24.09.2010 in favour of the 1st respondent when the suit schedule property is located outside the jurisdiction of the Principal Sub-Court, Cuddalore and within the jurisdiction of Sub-Court Panruti; and
 - iii. In view of existence of registered sale deed in favour of the petitioners by the deceased sole defendant Janakiraman on 13.04.2009 prior to the filing of the suit.

15. In the light of the above, I am of the view that a limited liberty can be granted to the petitioners by relegating the parties to establish their rights before the Sub-Court, Panruti. The learned Sub-Judge, Sub-Court, Panruti shall dispose all E.As filed by the petitioners within a period of six months from the date of receipt of a copy of this order. The 1st respondent is entitled to raise all

defenses that are available to him in the said court.

16.The petitioners shall also file an appropriate application to implead the respondents No.2 to 4 herein/the legal representatives of the deceased sole defendant Janakiraman.

17.The present Civil Revision Petition stands disposed by way of remand to the learned Sub-Judge, Sub-Court, Panruti. No cost. Consequently, connected Miscellaneous Petition is closed.

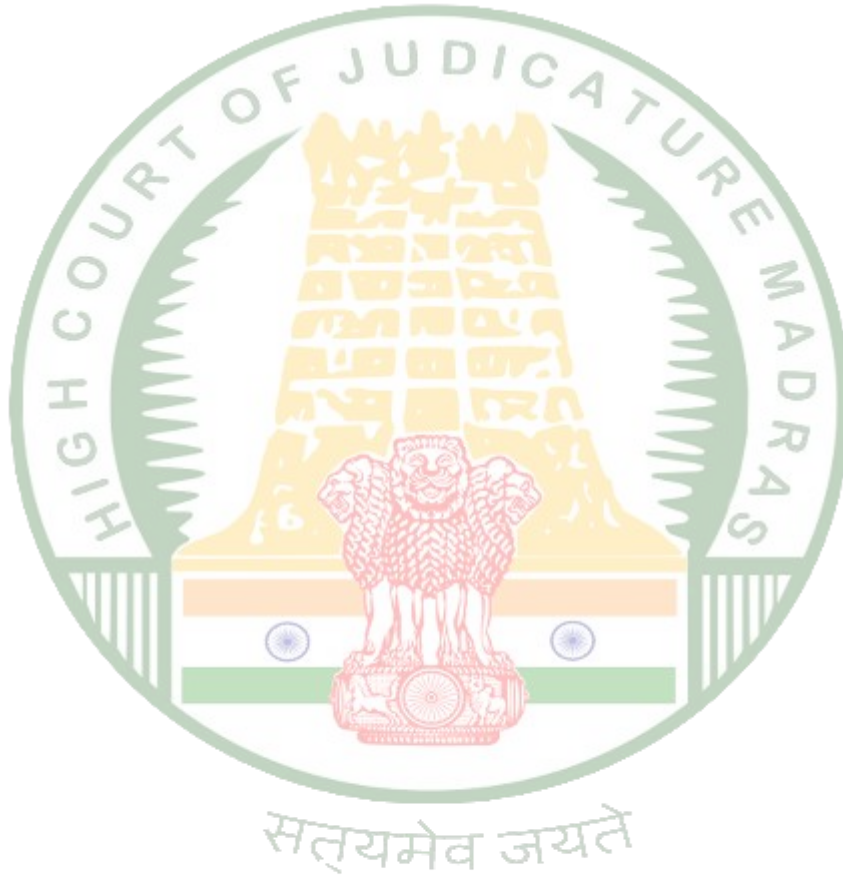
20.08.2019

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

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To

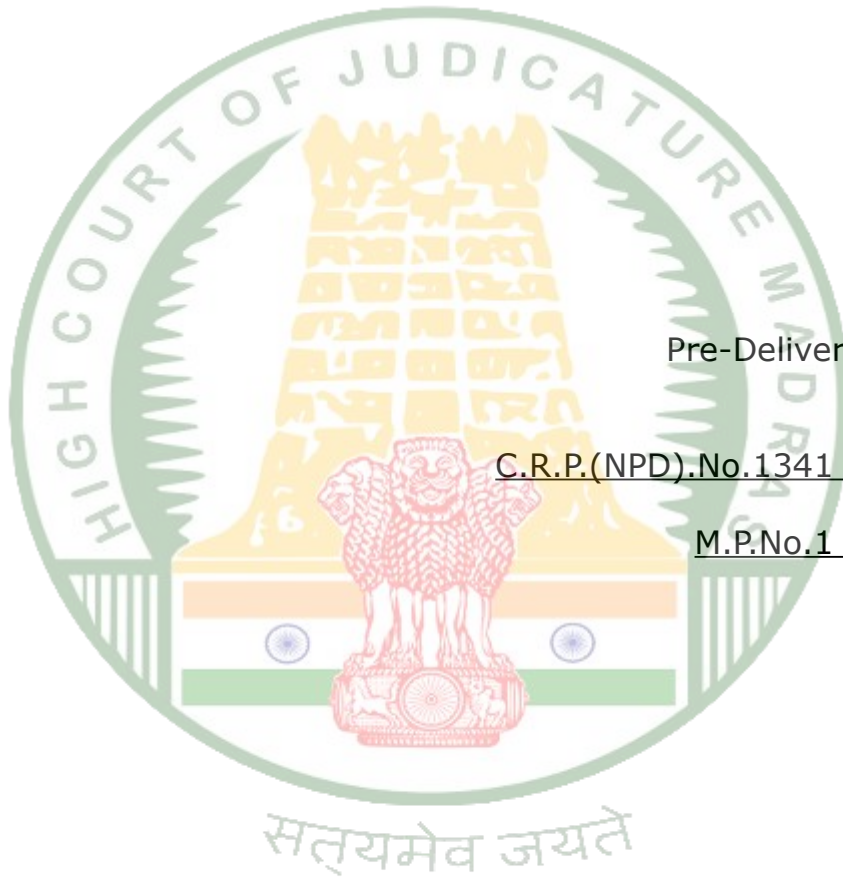
- 1.The Principal Subordinate Court,
Cuddalore.
- 2.The Subordinate Court, Panruti.
- 3.The Section Officer,
V.R.Section, High Court, Madras.



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C.SARAVANAN, J.

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Pre-Delivery Order
in

C.R.P.(NPD).No.1341 of 2015
and
M.P.No.1 of 2015

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