

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRP.(NPD)Nos.1354 and 1355 of 2015

Jayalakshmi (Died)

1. Yogambal

2. Vimala

3. Kalaiselvi

4. Murugan

...Petitioners in both petitions

Versus

Rukmabai (Died)

Raniammal (Died)

Nagasubramanian (Died)

1. N. Ramesh

2. N. Gurusamu

3. S. Seenu

4. Rajeswary

...Respondents in both petitions

Prayer in CRP.No.1354 of 2015: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order dated 18.06.2013 passed by the learned Principal Sub Judge, Puducherry in E.A.No.19 of 2010 in E.P.No.128 of 2002 in O.S.No.175 of 1977 on the file of the learned Principal Sub Judge, Puducherry by allowing the above Civil Revision Petition and consequently direct

the learned Principal Sub Judge, Puducherry to refund the extra amount sum of Rs.38,008/- (Thirty Eight thousand and eight only) paid by the petitioners on 19.07.2002 under Challan No.59/2002-03/CCD dated 19.07.2002 in State Bank of India, Pondicherry.

Prayer In CRP.No.1355 of 2015: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order dated 18.06.2013 passed by the learned Principal Sub Judge, Puducherry in E.A.No.73 of 2011 in E.A. No.19 of 2010 in E.P.No.128 of 2002 in O.S.No.175 of 1977 on the file of the learned Principal Sub Judge, Puducherry.

For Petitioners in both petitions : Mr.Prakash Adiapadam

For Respondents in both petitions: No appearance

For R1 to R3, R6 & R7 - Died

Mr.Nirmal Kumar for R4

Mr.V.Raghavachari for R5

ORDER

The prayer made before the Execution Court is for refund of a sum of Rs.38,008/- which the petitioner claims to have deposited on 19.07.2002 under Challan No.59/2002-03/CCD. Though such a prayer has been made before the Execution Court, the learned counsel for the petitioner submitted that the amount which he intends to seek refund for is a sum of Rs.18,000/- alone and not as stated i.e. Rs.38,008/-. While that being so, it cannot be said that there is an infirmity in the order passed by the Execution Court.

2. Nevertheless, the learned counsel would submit that the observation of the Execution Court that the Execution Petition was already terminated on 14.03.2005 and as such the Execution Court is not empowered to order this

application will deprive him to seek for refund of the same.

3. In my view, the petitioner should not be left with no options available for withdrawing the sum which is claimed to have belong to him.

4. In view of the same, the petitioner is granted liberty to make an appropriate application seeking for refund of a sum of Rs.18,000/- before the concerned Execution Court and on such filing of the said application, the Execution Court shall pass appropriate orders without reference to the closure of execution petition, preferably within a period of thirty days from the date of receipt of the application. The Civil Revision Petitions stand disposed of, accordingly. No costs.

24.01.2019

Index: Yes/No

Internet: Yes/No

Speaking order / Non speaking order

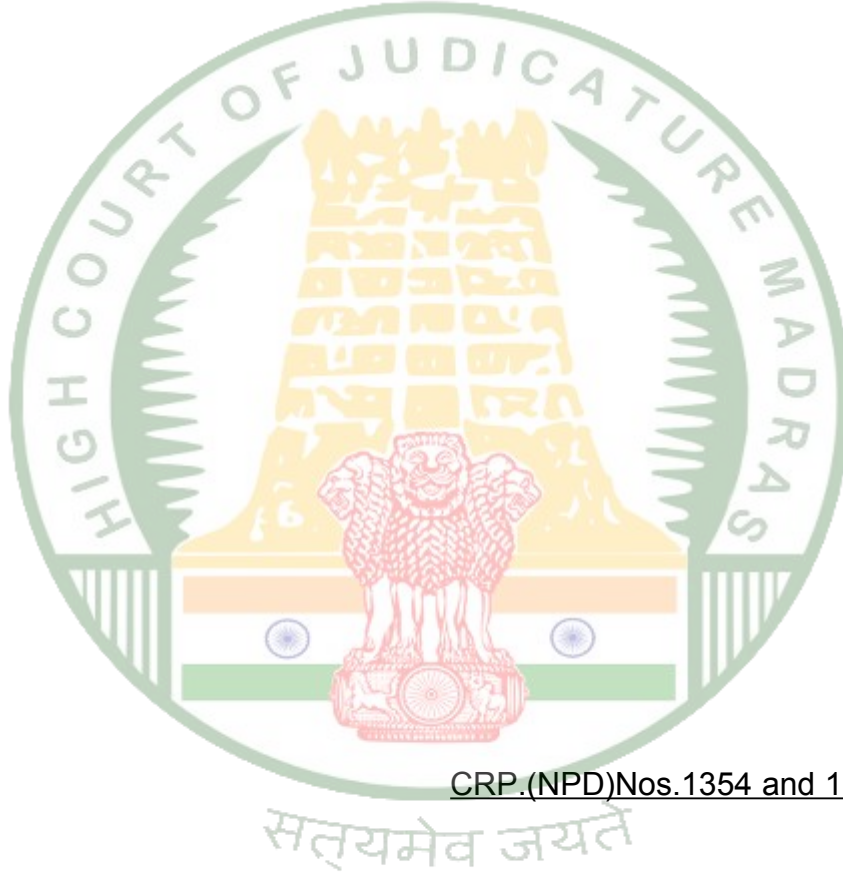
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To

The Principal Sub Judge, Puducherry

M.S.RAMESH, J.

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