

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).Nos.662 & 666 of 2019

and

C.M.P.No.4393 of 2019 in C.R.P.No.662 of 2019

and

C.M.P.No.4400 of 2019 in C.R.P.No.666 of 2019

1.Tmt.Santha

2.Thiru.Aswin Kumar

3.Thiru.Madan Kumar

4.Tmt.Kousalya

Duly represented by their

Power of Attorney, Aswin Kumar,

All are legal representatives

of Gowtham

... Petitioners in both the CRP's

-VS-

Mrs.Thilagam

... Respondent in both the CRP's

COMMON PRAYER:

Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order made in E.A.Nos.2540 and 2541 of 2017 against E.P.No.508 of 2016 in O.S.No.5145 of 2003, dated 29.11.2018, passed by the Learned X Asst. Judge, City Civil Court, Chennai.

For Petitioners : M/s.R.Chithradevi

For Caveator : Mr.Nagu Sah

COMMON ORDER

1.Civil Revision Petition No.662 of 2019 is filed challenging the order dismissing the Application filed by the Revision Petitioners/third parties (legal heirs of 1st Judgment Debtor) in E.A.No.2540 of 2017 to stay the

execution proceedings till the disposal of the of I.A.No.7584 of 2017, filed by the them to set aside the ex-parte Decree passed in O.S.No.5145 of 2003.

2.Civil Revision Petition No.666 of 2019 is filed challenging the dismissal of the Application moved by the Revision Petitioners in E.A.No.2541 of 2017, to permit them to be impleaded in the execution proceedings as legal heirs of the deceased 1st Judgment Debtor.

3.From a reading of the cause-title it is seen that the Revision Petitioners 1,3 and 4 were represented by their Power Agent, the second Revision Petitioner herein. Both the Applications have been dismissed by the learned X Assistant Judge, City Civil Court, Chennai only on the ground that the Revision Petitioners have not complied with the provisions of Order 3, Rule 1 and 2 of the Civil Procedure Code read with Rule 16 of the Civil Rules of Practice. A reading of the Exparte Judgment would also show that it is not a reasoned Judgment.

4.Considering all the above facts in conspectus and to achieve the ends of justice, this Court feels that E.A.Nos.2540 and 2541 of 2017 in E.P.No.508 of 2016 should be remitted back for fresh consideration to the X Assistant Judge, City Civil Court, Chennai, giving permission to the Revision Petitioners to comply with the conditions imposed in Order 3,

Rule 1 and 2 of the Civil Procedure Code read with Rule 16 of the Civil Rules of Practice. This exercise shall be completed within a period of one week from the date of receipt of a copy of this Order and within three weeks thereafter, the X Assistant Judge, City Civil Court, Chennai shall decide the E.A.Nos.2540 and 2541 of 2017 and pass necessary orders. Till the disposal of the of E.A.Nos.2540 and 2541 of 2017, the Executive Proceedings in E.P.No.508 of 2016 shall not proceed further.

5.In the result, the Civil Revision Petition is allowed on the above terms. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

14.03.2019

Index : Yes/No

Internet : Yes / No

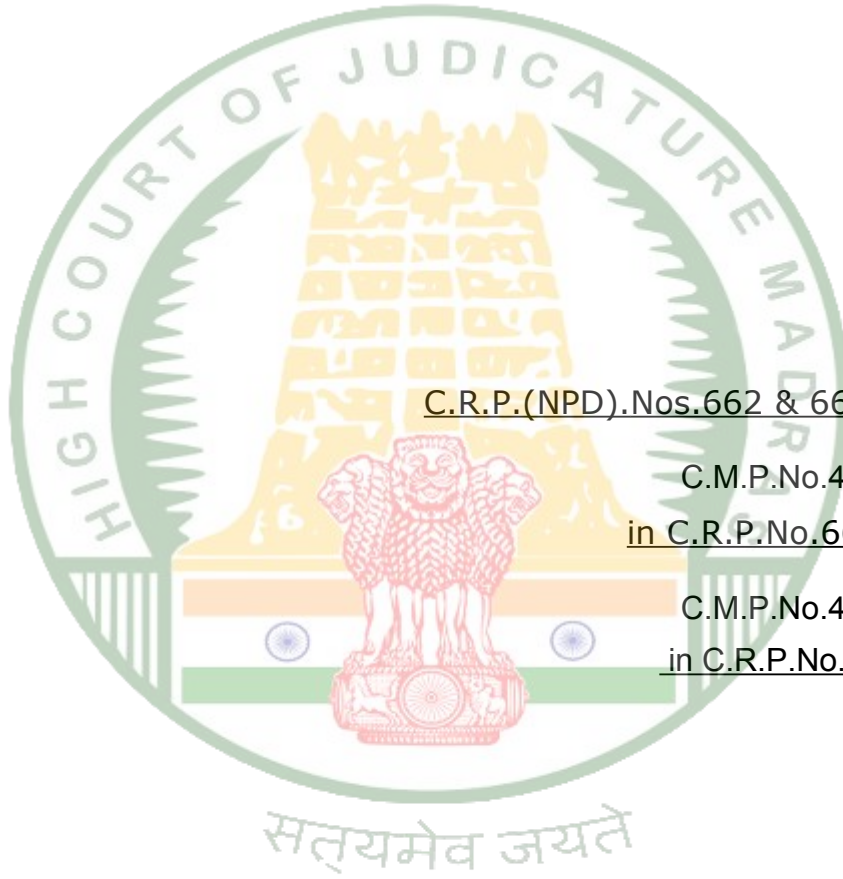
Speaking/non-speaking order
tsg

To
Learned X Assistant Judge,
City Civil Court, Chennai.

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P.T.ASHA.J.,

tsg



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