

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.3173 of 2013 and
M.P.No.1 of 2013

S.A. Zahir Hussain ... Petitioner

v.

1. T.Somasundaram

2. M. Gunasekar

3. Thalavai Samy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India,
against the fair and decreetal order dated 04.06.2013 made in
I.A.No.18157 of 2012 in O.S.No.629 of 2008 on the file of the VI
Assistant City Civil Court, Chennai.

For Petitioner : Mr. R. Venkata Varadhan

For Respondents : Mr. P.L. Narayanan – for r1
No Appearance – for R2
Not Ready in Notice - R3

ORDER

Challenging the fair and final order passed in I.A.No.18157 of 2012 in O.S.No.629 of 2008 on the file of the VI Assistant Judge, City Civil Court, Chennai, the 2nd defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.629 of 2008 for specific performance and for other reliefs. In the said suit, the plaintiff filed an application in I.A.No.18157 of 2012 to direct the respondents 1 and 2 to remove the petitioner from the suit property claiming through them directly or indirectly and consequently directing the petitioner to put back the plaintiff in possession of the suit property, failing which, directing the 3rd respondent to remove the defendants from the suit property claiming through them directly or indirectly and put back the plaintiff in possession of the suit property, pending disposal of the contempt petition. The defendants filed their counter and opposed the application.

3. The Trial Court, by order dated 04.06.2013, in I.A. No.18157 of 2012, directed the 3rd respondent to put back the plaintiff

into possession of the suit property, by removing the defendants from the suit property. So far as the Contempt Petition in I.A.Nos.18158, 18159 and 18560 of 2012 are concerned, the Trial Court, dismissed the Contempt Petition.

4. The Contempt Petitions were filed by the plaintiffs for the disobedience of the order dated 11.01.2012 made in I.A.No.19269 of 2011 by the defendants. By the impugned order, the 3rd respondent-Inspector of Police was directed to put back the plaintiff into possession of the suit property by removing the defendants from the suit property.

5. It is brought to the notice of this court that the Trial Court, by its judgment and decree dated 04.06.2013, decreed the suit. When the suit has been decreed by the Trial Court, it is needless to say that all the orders passed in the Interlocutory Applications would merge with the judgment and decree passed in the suit.

6. It is also brought to the notice of this Court that pursuant to the decree passed by the Trial Court, the plaintiff has filed an Execution Petition in E.P.No.4739 of 2013 in taking possession of the property and

the same is pending on the file of the IX Assistant Judge, City Civil Court, Chennai.

7. Since the order passed in I.A.No.18157 of 2012 had merged with the judgment and decree passed in O.S.NO.629 of 2008, no further orders are necessary in this Civil Revision Petition. However, it is open to the plaintiff to prosecute the Execution Petition in E.P.No.4739 of 2013, pending on the file of the IX Assistant Judge, City Civil Court, Chennai, in accordance with law. Since the Execution Petition is pending from 2013, I direct the IX Assistant Judge, City Civil Court, Chennai, to dispose of the Execution Petition, within a period of three months, from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is closed.
No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

Speaking order / Non Speaking Order

Rj

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26.09.2019

To

1. The VI Assistant Judge,
City Civil Court,
Chennai.
2. The IX Assistant Judge,
City Civil Court,
Chennai,

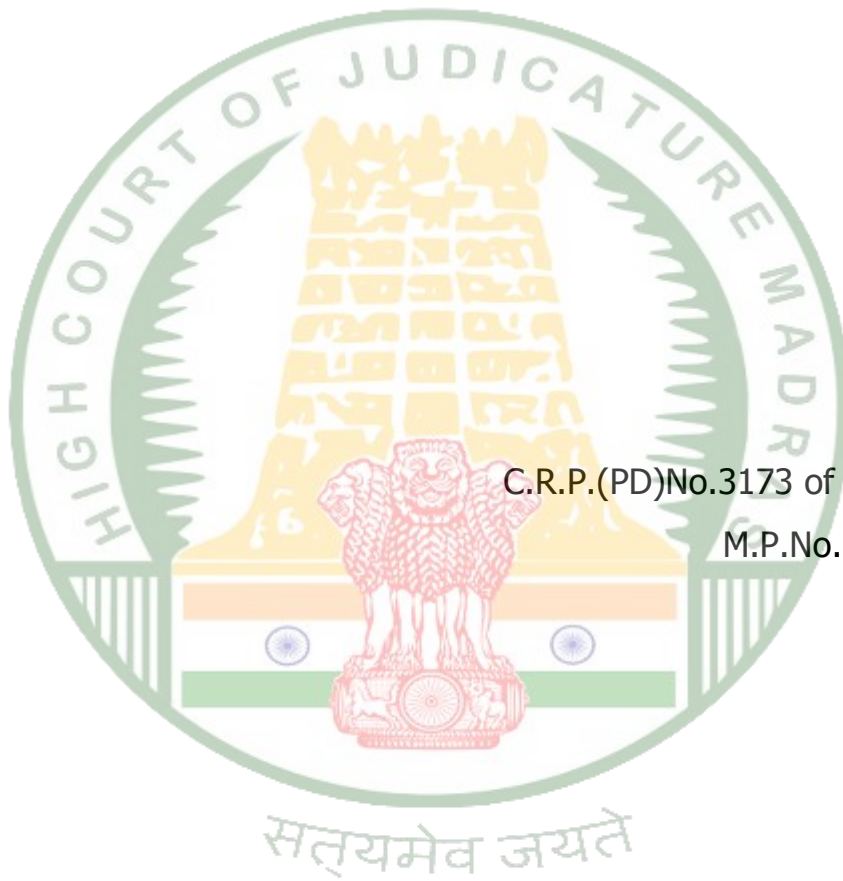


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M.DURAIWAMY, J.

Rj



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