

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.4097 of 2013
and M.P.No.1 of 2013

K.C.S.Nadar Memorial Education
Improvement Committee,
Rep. by its President S.Rajasekaran,
No.116/117, Sanjeevarayan Koil Street,
Washermenpet,
Chennai - 600 021.

... Petitioner

Vs.

Dr.K.Parthasarathy

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, against the order passed by the X Assistant Judge, City Civil Court, Chennai, in E.P.No.2362 of 2011 in O.S.No.2587 of 2002 dated 10.04.2013.

For Petitioner : Mr.Veerapathiran
For Respondent : Mr.R.Thiagarajan

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ORDER

The instant Civil Revision Petition has been filed against the order passed by the X Assistant Judge, City Civil Court, Chennai, in E.P.No.2362 of 2011 in O.S.No.2587 of 2002 dated 10.04.2013.

2. The background for passing of such an order is as follows:-

The respondent herein filed a suit for permanent injunction restraining the defendant from interfering with the plaintiff and his tenants right of usage of the passage and the stair case located at the southern side of the suit property. The above suit has been decreed in favour of the plaintiff, against which, an appeal has been filed in A.S.No.224 of 2012 on the file of the II Additional Judge, City Civil Court, Chennai. However, no stay was granted by the appellate Court. In the meanwhile, the decree-holder filed E.P.No.2362 of 2011 on the ground that the revision petitioner tried to interfere with the possession violating the decree and judgment, at that stage, the Executing Court passed an order of arrest, against which, the present revision is filed.

4. When the revision came up for hearing on 13.11.2013, the learned counsel appearing for the revision petitioner submitted before this Court pending revision, the revision petitioner gave undertaking that he will not violate the impugned judgment or order. Taking note of the above undertaking, the order of stay was granted. The learned counsel appearing for the revision petitioner has also submitted that till the disposal of the appeal, the judgment-debtor will not interfere with the possession of the decree-holder.

5. In view of the above-said submission and the undertaking, this Court is of the view that there is no need to decide the Civil Revision Petition and the same itself can be disposed of. Taking note of the undertaking, the revision petitioner is restrained from interfering with the possession of the respondent in respect of the suit property, which is the subject matter of A.S.No.224 of 2012 on the file of the II Additional Judge, City Civil Court, Chennai. In view of the same, the order of arrest passed by the trial Court in E.P.No.2362 of 2011 in O.S.No.2587 of 2002 dated 10.04.2013 is set aside and the Civil Revision Petition is disposed

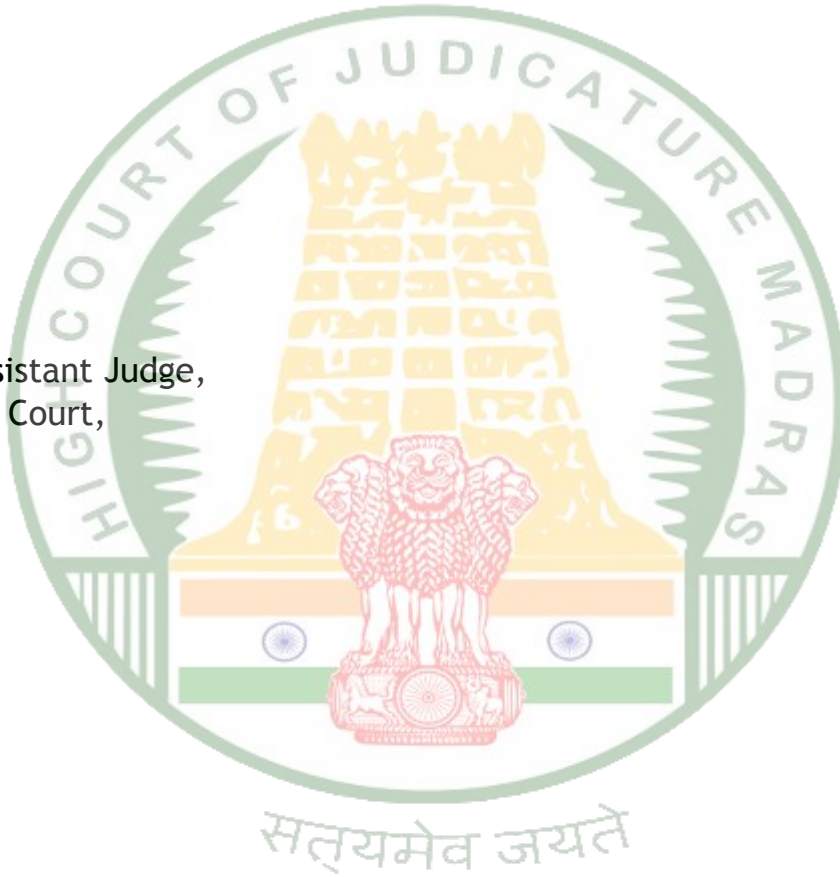
of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.02.2019

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To

The X Assistant Judge,
City Civil Court,
Chennai,



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N. SATHISH KUMAR, J.

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