

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP(NPD).Nos.1010 & 1011 of 2019

M.V.Prasanna

..Petitioner/3rd Party
in CRP.No.1010/2019

M.V.Prashanthi

..Petitioner/3rd Party
in CRP.No.1011/2019

Vs

1.G.Rajagopal

..1st Respondent/Decree holder
in both petitions

2.D.Saroja Ammal

3.S.R.Thulukanam

4.V.Ponnusamy

..2nd to 4th Respondents/Judgment
Debtors
in both petitions

This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned return dated 11.01.2019 made in E.A.Sr.Nos.15941 & 15949 of 2018 in E.P.No. 157 of 2013 in O.S.No. 181 of 2011, on the file of the learned Subordinate Judge at Tambaram, Consequently pleased to direct to number the petition filed in E.A.Sr.Nos. 15941 & 15949 of 2018 in E.P.No. 157 of 2013 in O.S.No. 181 of 2011.

For Petitioners

in both petitions : Mr.G.Jayachandran

ORDER

The above Civil Revision Petitions are filed challenging the return being made by the learned Executing Court on the applications filed by the revision petitioners as a third party under Order 21 Rule

97, 98 of the Code of Civil Procedure, stating that provisions can only be invoked by the decree holders. The Hon'ble Supreme Court of India in the Judgment reported in **AIR 2002 SC 251 [N.S.S.Narayana Sarma and others Vs. M/s.Goldstone Exports (P) Ltd. and others]** has held that "the right of tenant or any person claiming right on his own of the property in case he resists his objection under Order 21 Rule 97 has to be decided by the learned Executing Court itself". Therefore, there is no prohibition to a third party in filing an application under Order 21 Rule 97 and the return of the objection on the above lines is totally erroneous. The learned Subordinate Judge, Tambaram is directed to number the applications and hold an enquiry on the same. The original impugned order was returned to the learned counsel for the petitioners, who has made necessary endorsement in receiving the same.

2 In the result, these Civil Revision Petition are disposed of with the above lines and order passed by the learned Subordinate Judge, Tambaram, in E.A.Sr.Nos.15941 & 15949 of 2018 in E.P.No. 157 of 2013 in O.S.No. 181 of 2011, dated 11.01.2019 is set aside. No costs.

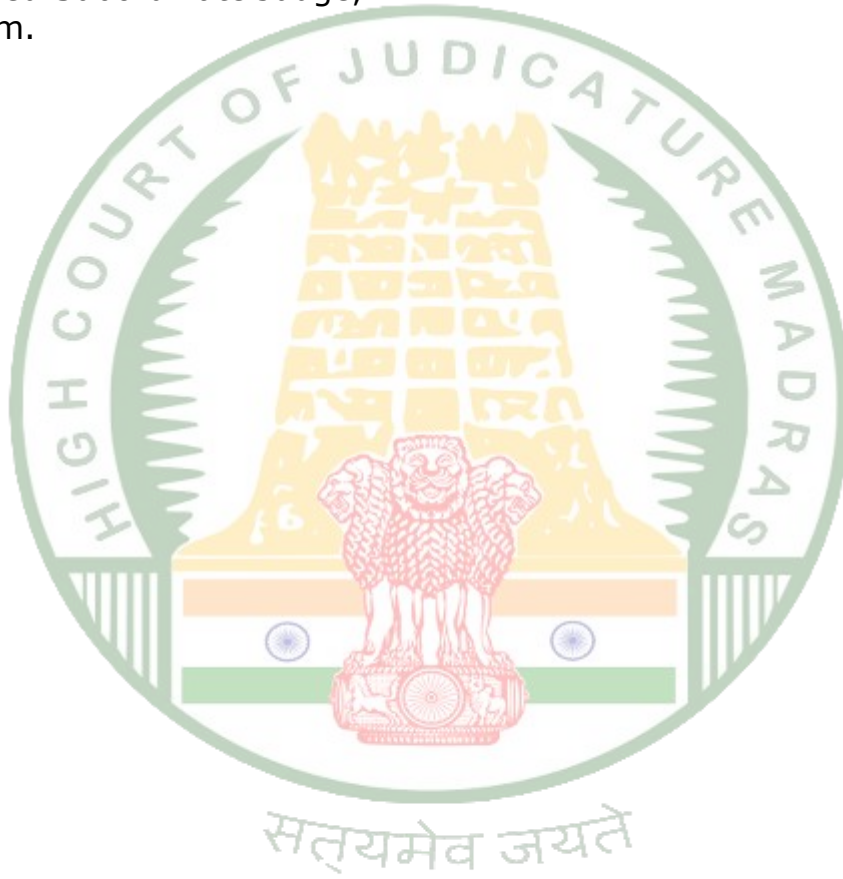
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Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order

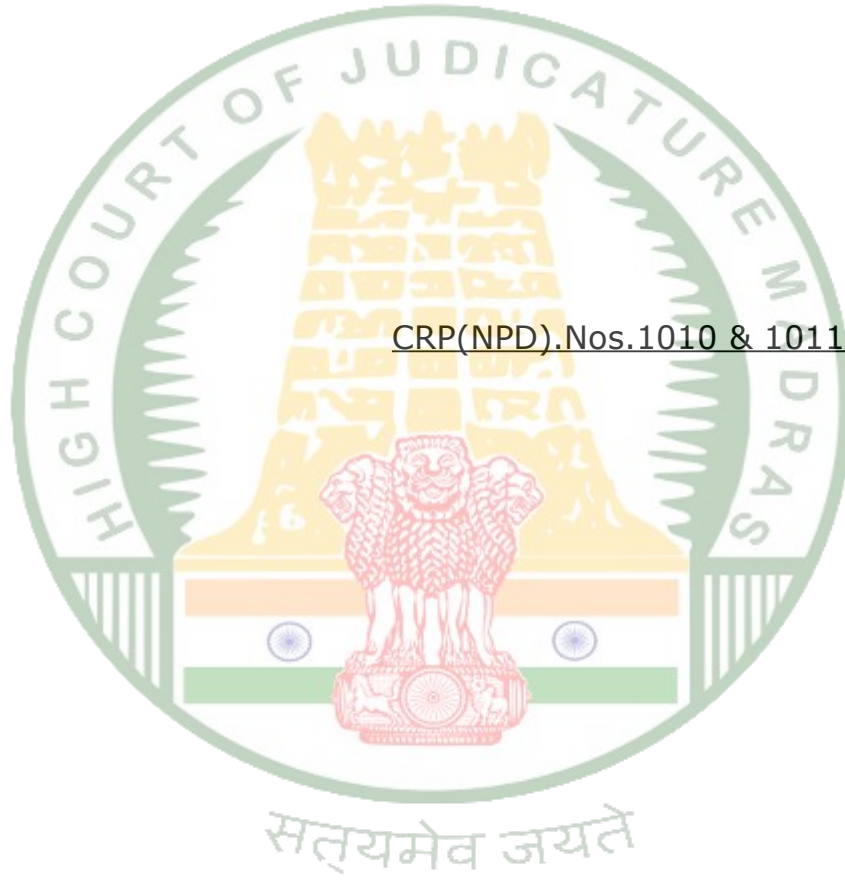
To

The learned Subordinate Judge,
Tambaram.



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P.T.ASHA, J.
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