

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2019

CORAM

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

CRP.(NPD).No.15 of 2016

- 1.Indira
- 2.Minor Ragul
- 3.Minor Subashree
- 4.Thangavel
- 5.Suseela

(Minors 2 and 3 represented
by their guardian, next friend
and mother, i.e. 1st
petitioner)

..Petitioners/Decree Holders

Vs

G.Ravi

..Respondent/Judgment Debtor

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to reject the petition in R.E.A.No.237 of 2015 in R.E.P.No.46 of 2011 in O.S.No.315 of 2004 on the file of the learned I Additional Sub-Judge, Salem.

For Petitioners : Mr.Logasundar
For Respondent : No appearance

ORDER

The above Civil Revision Petition is filed to strike of the petition in R.E.A.No.237 of 2015 in R.E.P.No.46 of 2011, which is a petition under Section 47 C.P.C, which has been filed by the

judgment debtor namely, G.Ravi claiming that the executing Court does not have jurisdiction, since the suit itself is barred by limitation and therefore, the decree got on a suit cannot be executed.

2 It is seen from the records that the respondent/judgment debtor had originally allowed the ex-parte decree to be passed in the suit O.S.No.315 of 2004 and thereafter, had filed an application to set aside the ex-parte decree with a delay of 840 days in I.A.No.85 of 2011, dated 03.09.2013. The said I.A was allowed by the Court below and the same was taken up on challenge by the decree holders/plaintiffs in C.R.P.No.4550 of 2013 and this Court by order dated 24.09.2014 was pleased to allow the said revision petition and the order condoning the delay was set aside and thereby, the ex-parte decree became final. Subsequently, the decree holders had filed the execution petition and in the said execution petition, the respondents had filed E.A.No.93 of 2015, wherein, he had prayed that the Court grant him six months time to surrender possession to the decree holders, this petition was filed on 20.03.2005 and after the filing of the said petition, the petition under Section 47 of the C.P.C has been filed on 08.08.2015 and the same is nothing but an abuse of process of Court and the same has to be strike of. Accordingly, the petition R.E.A.No.237 of 2015 in R.E.P.No.46 of 2011 has to be struck off on the ground that the same is nothing but an abuse of process of Court.

In the result, the Civil Revision Petition is allowed. No costs.

22.02.2019

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

dua

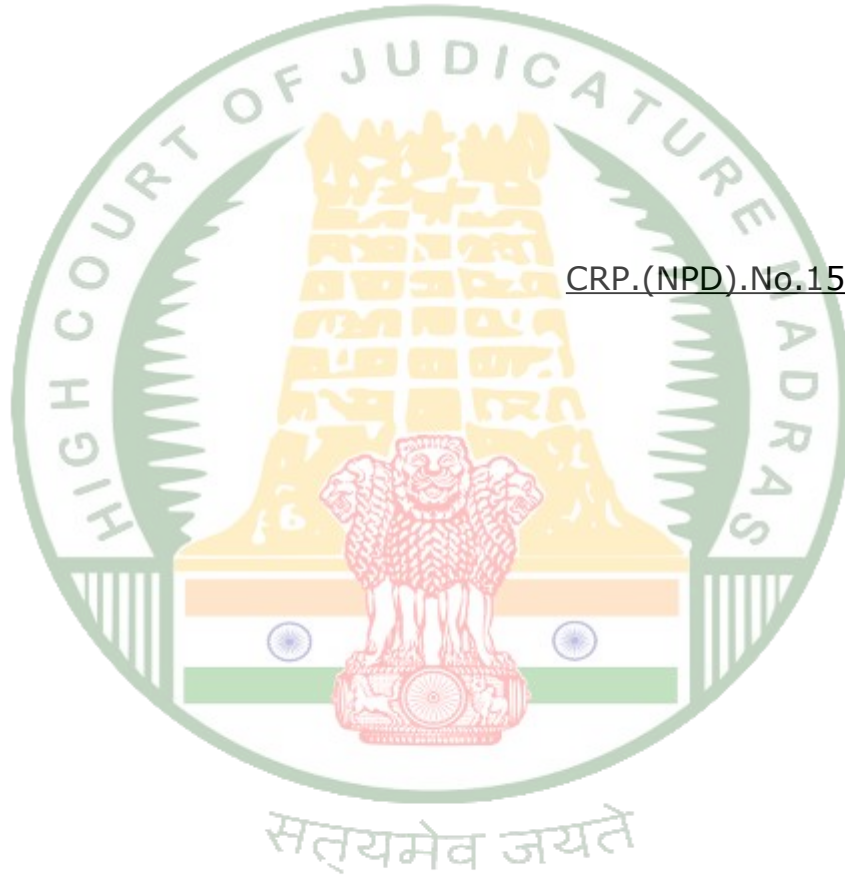
To

The learned I Additional Sub-Judge,
Salem.



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P.T.ASHA, J.
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