

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (PD)No.1628 of 2014

R. Valliammal

... Petitioner

Vs

B. Perumal

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal orders, dated 30.09.2013 in E.P. No.4759 of 2012 in O.S. No.8667 of 2006 on the file of the IX Assistant City Civil Court, Chennai.

For Petitioner : Mr.R. Subramanian

ORDER

The instant Civil Revision petition has been filed challenging the order dated 30.09.2013 in E.P. No.4759 of 2012 in O.S. No.8667 of 2006 passed by the IX Assistant City Civil Court, Chennai.

Brief facts leading to the filing of the instant Revision Petition are as follows :

2. The petitioner is the decree holder. She has obtained a money decree against the respondent in O.S. No.8667 of 2006. She filed Execution Petition in E.P. No.4759 of 2012 in O.S. No.8667 of 2006 to execute the said judgment and decree passed in O.S. No.8667 of 2006 before the IX Assistant City Civil Court, Chennai for attachment of movables belonging to the respondent under Order 21 Rule 43 of CPC read with section 64 CPC.

3. Heard Mr.R. Subramanian, learned counsel for the petitioner.

4. In the impugned order, the court has recorded the fact that a sum of Rs.10,000/- has been paid by the respondent / judgment debtor on 25.08.2011 and a sum of Rs.38,435/- was paid on 12.01.2012 and at the time of execution of warrant, the petitioner / decree holder has also made an endorsement in the warrant that a sum of Rs.38,435/- was received by her in total and that she is not pressing the warrant. In the impugned order, the Court has also recorded the fact that recording the endorsement made by the petitioner / decree holder, the Court had passed an order dated 29.03.2012 closing the execution petition. In the earlier Execution Petition, Viz. E.P. No. 3111 of 2008, filed by the petitioner, the decree

holder filed a fresh Execution Petition Viz. E.P. No.4759 of 2012, which is the subject matter of this revision on the ground that she has miscalculated earlier and therefore, she is entitled for the balance amount which was not recovered under the original Execution Petition E.P. No.3111 of 2008. Since, the decree holder has already made an endorsement in the bailiff's warrant that she has received the entire amount of Rs.38,435/- and she is not pressing the earlier Execution Petition Viz. E.P. No.4759 of 2012, the Trial Court has dismissed the second Execution Petition filed by the petitioner viz., E.P. No.4759 of 2012 in the impugned order. This Court is in agreement with the view taken by the executing court.

5. For the foregoing reasons, this Court does not find any infirmity in the impugned order passed by the Trial Court. Accordingly, there is no merit in this Civil Revision Petition and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2019

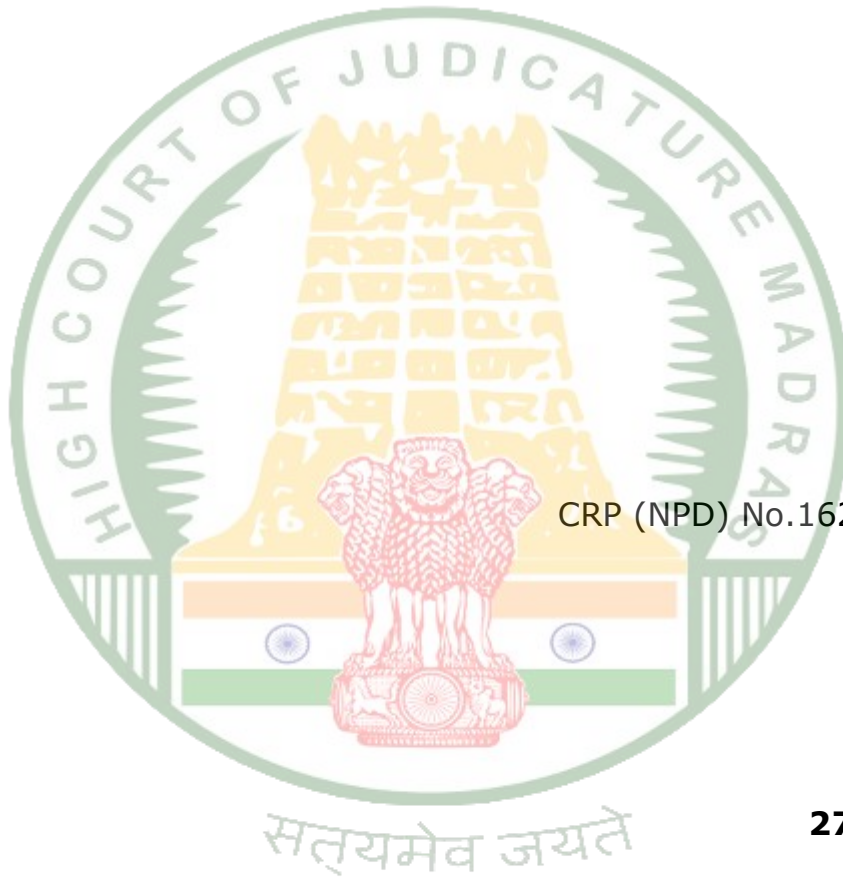
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ABDUL QUDDHOSE, J.

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To
The IX Assistant City Civil Court, Chennai.



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