

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.4210 of 2014

M.P.Nos. 1 & 2 of 2014

1. G.Ashok Kumar

2. Tmt. Usha Rani

... Petitioners

v.

The Secretary,
The Chengalpet Co-operative (Housing Society),
Anna Nagar,
Chengalpet

... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 08.03.2013 passed in E.P.No.131 of 2010 in C.E.P. No.43 of 2003 in A.R.C.No.897 of 2000-2001 on the file of the Additional Sub Judge, Chengalpet

For Petitioners : Mr.M. Arumugam

For Respondent : Mr. R. Kamaraj

ORDER

Challenging the order passed in E.P.No.131 of 2010 in C.E.P. No.43 of 2003 in A.R.C.No.897 of 2000-2001 on the file of the Additional Sub Court, Chengalpet, the Judgment Debtors have filed the above Civil Revision Petition.

2. Pursuant to the award passed in A.R.C.No.897 of 2000-2001, the respondent-society filed an Execution Petition and brought the mortgaged property to sale.

3. According to the learned counsel for the petitioners, the property was brought to sale and the same was also purchased by the respondent-society, since there was no bidder. Thereafter, the respondent-society filed the Execution Petition against the Judgment Debtors for taking possession of the property.

4. By order dated 08.03.2013, the Executing Court, allowed the Execution Petition by directing the revision petitioners-Judgment Debtors to deliver the vacant possession of the property by 12.04.2013 as per the sale certificate dated 06.11.2009.

5. It is brought to the notice of this Court that the petitioners have challenged the award passed in A.R.C.No.897 of 2000-2001 before this Court in W.P.No.26258 of 2004 and this Court, by order dated 25.01.2012, dismissed the Writ Petition finding that the Writ is not maintainable.

6. It is also brought to the notice of this court that the property in question was sold in the auction as early as in January 2004 and the sale certificate was issued in favour of the respondent-society on 06.11.2009. In spite of the same, the respondent-society is not in a position to take possession of the property till today.

7. When the property was sold to the respondent-society in auction and when the sale was not challenged by the Judgment Debtors, the petitioners-Judgment Debtors cannot withhold the possession of the property. The respondent-society is entitled to take possession of the property. In fact, the petitioners have lost their title after the issuance of sale certificate.

8. In such circumstances, I do not find any error or irregularity in the order passed by the Executing Court in E.P.No.131 of 2010. The Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

19.11.2019

Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

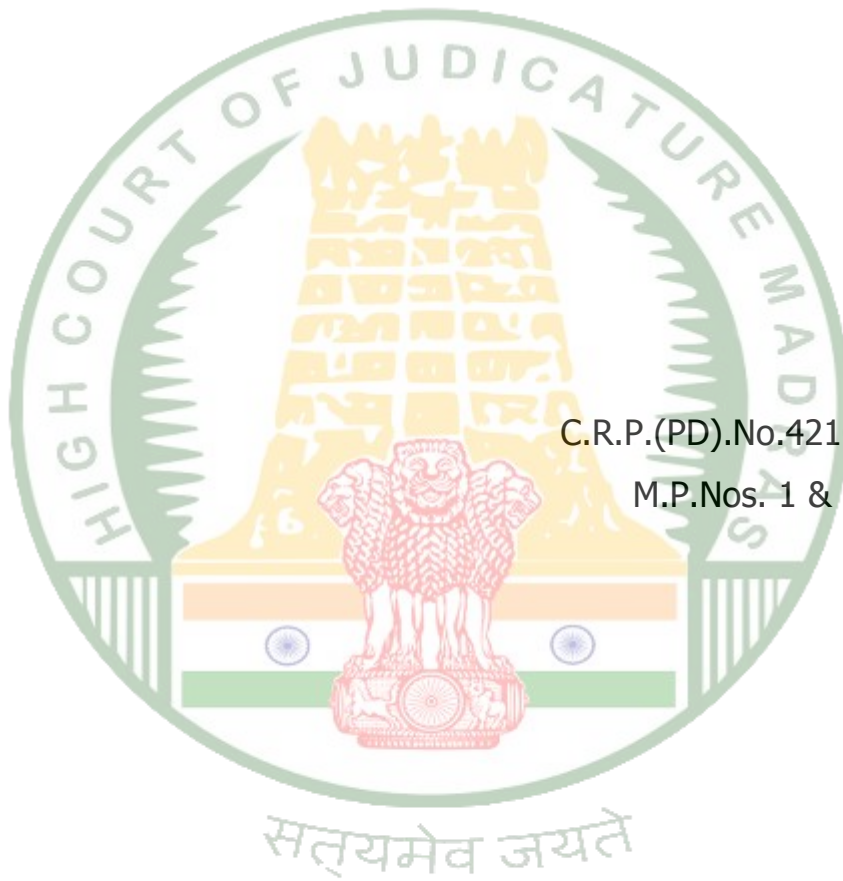
1. Additional Sub Court,
Chengalpet
2. The Secretary,
The Chengalpet Co-operative (Housing Society),
Anna Nagar,
Chengalpet

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M.DURAISWAMY, J.

Rj



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