

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(NPD).No.4331 of 2014
and
M.P.No.1 of 2014

A.M.Loganathan

... Petitioner

Vs.

1.Natarajan

2.Muthusamy

3.K.Periasamy

... Respondents

PRAYER: Civil Revision petition is filed under Section 115 of CPC, 1908, to set aside the fair and final order dated 07.10.2014 made in E.P.No.19 of 2011 made in O.S.No.274 of 1995 on the file of District Munsif-cum-Judicial Magistrate, Paramathi.

For Petitioner : Mr.L.Mouli

For Respondents : Mr.N.Manokaran

ORDER

The present Civil Revision Petition is filed against the fair and final order dated 07.10.2014 in E.P.No.19 of 2011 in O.S.No.274 of 1995 passed by the District Munsif-cum-Judicial Magistrate, Paramathi.

2.The petitioner is the defendant in O.S.No.274 of 1995 filed before the Subordinate Court, Namakkal. The said suit was filed by the respondents. The said suit was decreed on 10.08.1998.

3.The said suit was filed before the Subordinate Court, Namakkal at that time the pecuniary jurisdiction for a value of the suit above Rs.30,000/- was vested with the said court, though the suit schedule property was situated in Paramathi within the Territorial Jurisdiction of the District Munsif-cum-Judicial Magistrate, Paramathi. When the Execution Petition was filed in 2008 vide E.P.No.19 of 2011, the jurisdiction of the District Munsif-cum-Judicial Magistrate, Paramathi was enhanced.

4.This application has been challenged by the petitioners on the ground that the E.P was filed before the wrong Court.

5. In this connection, the learned counsel for the petitioner relied upon the following decisions:-

- i. **Badami (Deceased) By her Legal Representative vs Bhali** (2012) 11 SCC 574.
- ii. **Ramesh Chand Ardawatiya vs Anil Panjwani** (2003) 7 SCC 350.
- iii. **Kishan Lal Barwa vs Sharda Saharan & Another** 2015 SCC Online All 4980: (2015) 110 ALR 162.
- iv. **G.Selvam & Others vs Kasthuri (deceased) and Others** 2015 3 L.W 705.

6. Per contra, the learned counsel for the respondents submits that the order passed by the District Munsif-cum-Judicial Magistrate, Paramathi cannot be quashed. He referred to the decision of this Court in **V.Nirmal Kumar @ V.Robert Nirmal Kumar vs Tamil Evangelical Luthern Church** in C.R.P.(NPD) No.94 of 2013, wherein it was held as follows:-

"21. A perusal of the explanation to [Section 37](#) shows that the Court does not cease to have jurisdiction to execute a decree merely on the ground that any area has been transferred from the jurisdiction of that Court to the jurisdiction of any other Court either after institution of the suit or passing of the decree. As per the explanation, apart from the Court of first instance,

such other Court shall also have jurisdiction to execute the decree. That means both the Court of first instance as well as the Court to which the area has been transferred have got jurisdiction to entertain the execution application and execute the decree . In this case, it is seen that only the pecuniary jurisdiction has been extended to the District Munsif Court, Pollachi and the subject matter has not been totally ousted from the jurisdiction of the Sub-Court, Pollachi. In other words, the territorial jurisdiction of the the subject matter of property has not been taken away from the Sub- Court, Pollachi."

7. The above decision applies to four corners to the fact of the case. The learned counsel also submits that the Tamil Nadu Act 1 2004 was passed pursuant to which the jurisdiction of the District Munsif Court enhanced from Rs.30,000/- to 1,00,000/-.

8. The Court has correctly came to a conclusion that it has jurisdiction to execute the decree as the pecuniary jurisdiction of District Munsif cum Judicial Magistrate has been enhanced subsequent to the above amendment.

9. The decisions cited by the learned counsel for the petitioner have no relevance to the facts of the case.

10. Consequently, the respondents have rightly approached the District Munsif-cum-Judicial Magistrate Court, Paramathi.

11. I do not find any merits in the present Civil Revision Petition. In the light of the view, I do not find any merits to interfere with the order of the Court.

12. The present Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
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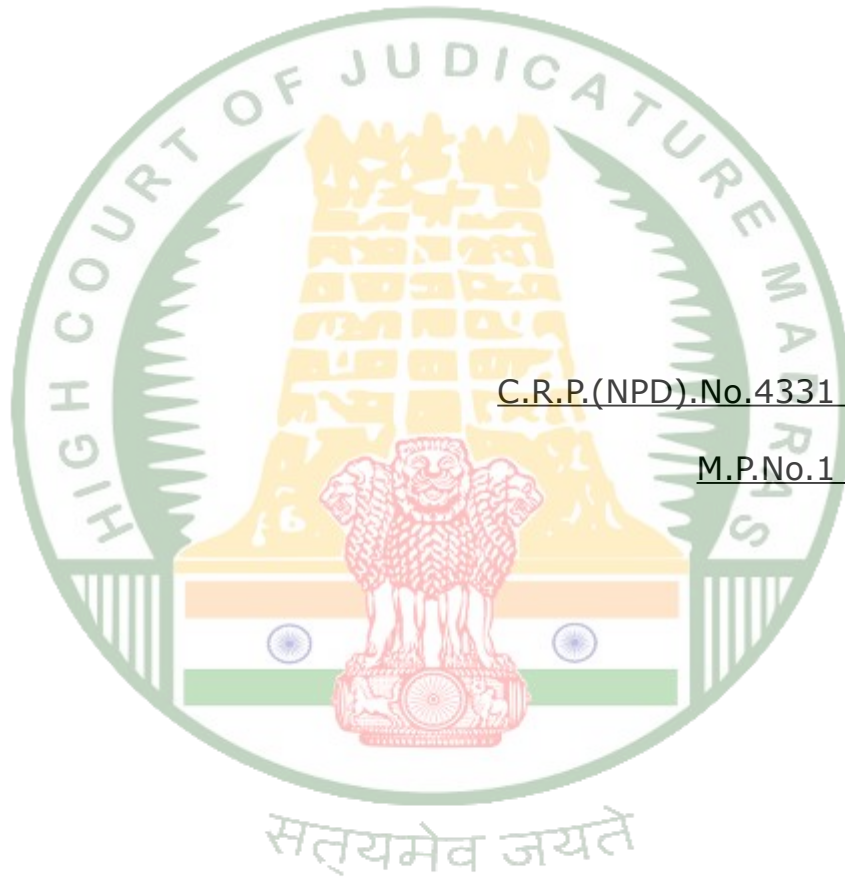
1. The District Munsif-cum-Judicial Magistrate,
Paramathi.

2. The Subordinate Court, Namakkal.

3. The Section Officer,
V.R. Section, High Court, Madras.

C.SARAVANAN, J.

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