

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) No.2629 OF 2019
and
C.M.P.No.17381 OF 2019

V.J.Parthasarathy (Deceased)

1.P.Vasantha Bai

2.V.P.Saravanan @ Yogneswaran

... Petitioners

Vs.

R.N.Sundararajan

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 06.07.2019 made in E.A.SR.No.1526 of 2019 in E.P.No.20 of 2016 in R.C.O.P.No.34 of 2009, on the file of the Additional District Munsif, Vellore (Rent Control Authority).

For Petitioners

: Mr.R.Venkata Varathan

For Respondent

: No Appearance

* * *

ORDER

The respondent filed a petition for eviction on the ground of demolition and reconstruction of the scheduled mentioned property. The Trial Court issued order of eviction which was confirmed by Appellate Court. The respondent herein had filed an Execution Petition for delivery of possession which is restituted by the petitioner on the ground that the respondent / landlord has not produced the demolition plan and building plan. The trial Court, refused to entertain the application for production of demolition plan and building prevail in the Sr. stage itself. Aggrieved over the same, the petitioner is before this Court. The learned counsel for the petitioner would rely on the judgment reported in **(2002) 5 SCC 229 [Harrington House School Vs. S.M.Ispahani and Another]** in which the Hon'ble Supreme Court had issued specific direction that the decree would become executable only after sanction of building plan and sanction plan before the executing Court.

2. Relying on the judgment of this Court reported in **2010 5 L.W. (54) [Harigangaben Purohit rep. by Power Agent Mr.Harshrav Shukla Vs. V.Shahjahan]** held that when a direction is given that should be complied with the judgment of Hon'ble Supreme Court in respect of the binding precedent in the above case. In so far as, the present case is concerned, I do not find any specific direction issued by this Court to produce demolition and building plan for executing the decree. In the absence of any direction, the

execution court cannot go behind the decree and direct the landlord to produce the plans demanded by the petitioner / judgment debtor. It will amount to re-visiting the order passed by the Supreme Court. Under such circumstances, I do not find any infirmity in the order passed by the execution Court. The civil revision Petition merits no consideration and accordingly dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

13.08.2019

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Index:Yes/No

Speaking order / Non speaking order

To

The Additional District Munsif, Vellore (Rent Control Authority)

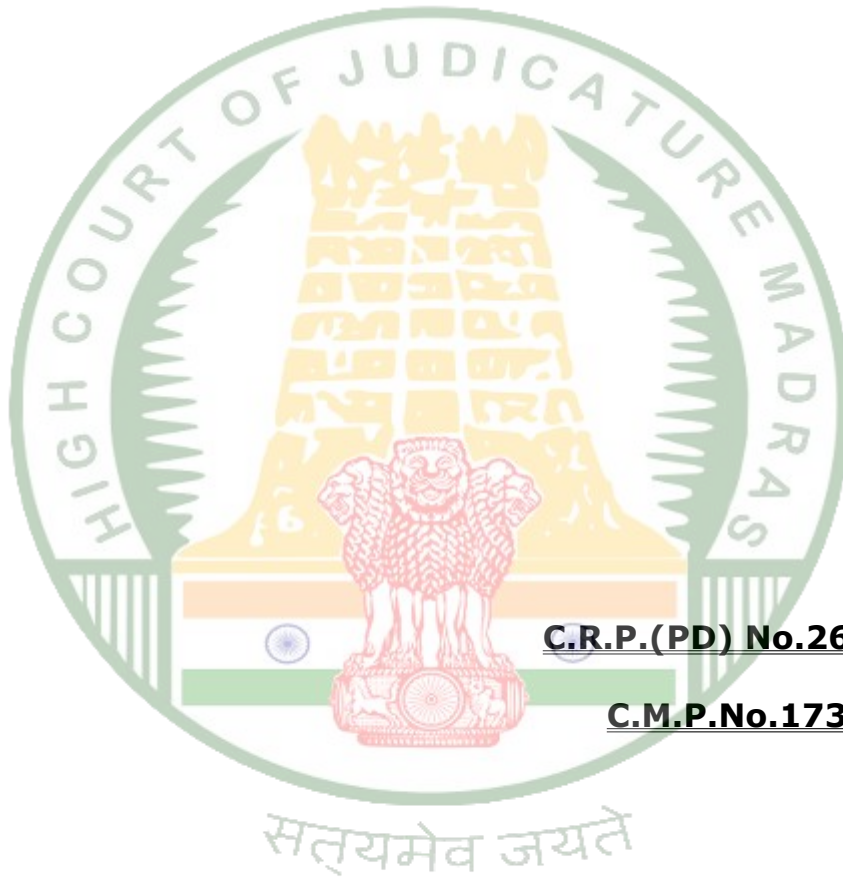


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M.GOVINDARAJ. J.,

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