

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P.(PD) No.3005 of 2019

Kaliamurthy

... Petitioner

Vs.

1.Shanthamurthy

2.Masilamani

3.Subramani

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to direct the learned Principal Subordinate Judge, to speedy disposal of E.P.No.74 of 2016 in O.S.No.60 of 2009 within the time stipulated by this Court.

For Petitioner : Mr.N.Palanivel

For Respondents : Mr.R.Agilesh

ORDER

This revision petition has been filed to expedite the trial in E.P.No.74 of 2016 in O.S.No.60 of 2009 on the file of the Principal Sub Judge, Tindivanam at an early date.

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2. On 10.09.2019, this Court issued notice to the respondents and at the same time called for report about the stage of E.P.No.74 of 2016 in O.S.No.60 of 2009 and the number of pending cases from the concerned Court. Pursuant to the said order, a report has been received from the Principal Subordinate Judge, Tindivanam, which reads as follows :

“ On 24.03.2016 when case is posted for counter of 2nd Respondent and Notice to 3rd Respondent on 3.10.2018. R3 died so a memo filed and recorded. After that the petitioner/Decree holder filed a petition u/sec. 50 of Civil Procedure Code to implead legal heirs of R3 as R4 and R5. The above said Sec.50 CPC petition numbered as E.A.No.166/2018 on 19.12.2018. In the above said E.A.166/2018, Notice to R5 served only on 27.6.2019. Now EA.166/2018 is pending for Notice to R4 and Counter of R5.

Further I humbly submit that R1 is set exparte in EP.74/2016 in OS.60/2009 on 31.01.2018. During counter of R2 Rs.10,000/- paid by 2nd Respondent and payment recorded on 27.06.2019. Now EP.74/2016 in OS.60/2009 is pending at the stage of “further payment by 2nd Respondent and EA.166/18 is pending” call on 21.10.2019.”

3. The learned Principal Judge, Tindivanam also submitted a statistical report about the pendency of the cases as on 23.09.2019, which discloses that 475 Original Suits, 686 Execution Petitions and apart from that other cases like Appeal Suits, H.M.O.P, Sessions Cases etc., totally consisting of 1661 cases are pending.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. The learned counsel for the respondents submitted that the suit was decreed for a sum of Rs.2,50,132/- with interest and that E.P.No.74 of 2016 was filed for recovery of money of Rs.4,00,000/-. The respondents are agricultural Coolies, because of their indigent circumstances, they were not able to pay much amount towards the due. At any rate, the learned counsel for the respondents/ judgment debtors would submit that, the respondents would pay Rs.10,000/- regularly in every month at the time of every hearing.

6. The learned counsel for the revision petitioner submitted that, the said proposal was given by the respondents and since the respondents are poor coolies, there can be no alternative method to hassle the respondents to repay the money at one stretch. Therefore, if the respondents have come forward to make payment of Rs.10,000/- once in a month i.e at every hearing of E.P the amount would be recovered.

7. In that view of the matter, this Court is inclined to dispose of the revision petition with a direction that, the respondents shall pay Rs.10,000/- in every hearing. Accordingly, this Court directs the Execution Court to post the E.P in every month for the purpose of making part payment by the judgment debtors and in the meanwhile if the judgment debtors want to make bulk payment, the Execution Court can act upon. That apart, no direction can be given to the Execution Court to expedite the E.P to dispose of within a time, since huge number of suits and other cases are pending.

8. With the above direction the Civil Revision Petition is disposed of. No costs.

25.09.2019

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

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To

The Principal Subordinate Judge,
Tindivanam.

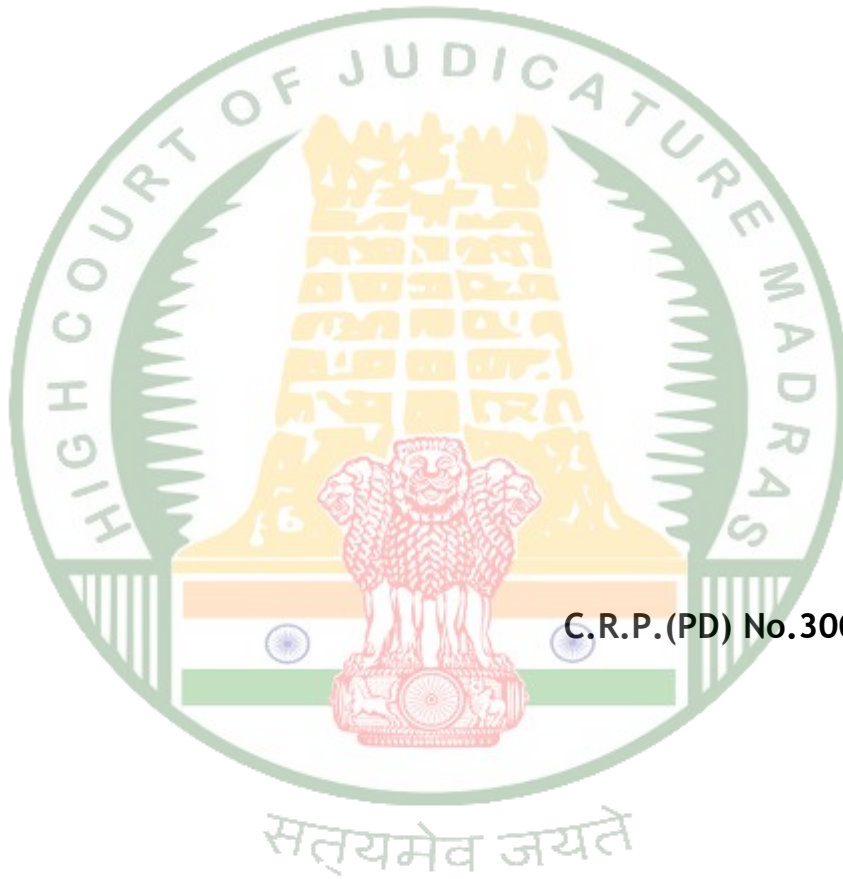


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R.SURESH KUMAR, J.

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