

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

CRP (NPD) NO.2705 OF 2019

1.Anthoniammal  
2.Backialakshmi

... Petitioners

**Vs.**

1.A.Juliet  
2.Premanandan

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the docket order made in E.P.No.87 of 2017 in O.S.No.12 of 2015 dated 23.07.2019 on the file of III Additional District Judge, Poonamallee at Thiruvallur.

For Petitioners : Mr.R.Thiagarajan

ORDER

This Civil Revision Petition is directed against the refusal to set aside the order of delivery of possession passed by the Execution Court. The petitioners are the judgment debtors before the Execution Court.

2. The first respondent filed a suit for declaration of title and for recovery of possession. The Trial Court decreed the suit and the same went up to the Hon'ble Supreme Court and confirmed by it. Thereafter, the petitioners filed another suit in O.S.No.288 of 2019 for the relief of declaration declaring the power of attorney - Ex.A4, cash receipt - Ex.A3 and registered sale deed - Ex.A5 as illegal and to declare the decree secured by the first respondent is vitiated by fraud and for permanent injunction from executing the decree.

3. Admittedly, the documents challenged by the petitioners were admitted in evidence in the previous suit and the petitioners have not agitated the validity of the same. While the documents were declared proved and the decree of the trial court stood confirmed by a Division Bench of this Court and by the Hon'ble Supreme Court, the Execution Court, rightly refused to set aside the order of delivery of possession. Only because the suit against the decree holder was filed by the judgment debtor, stay need not be granted automatically. The Execution Court shall exercise its discretion for grant of stay. In the instant case, the documents which are challenged were admitted by the

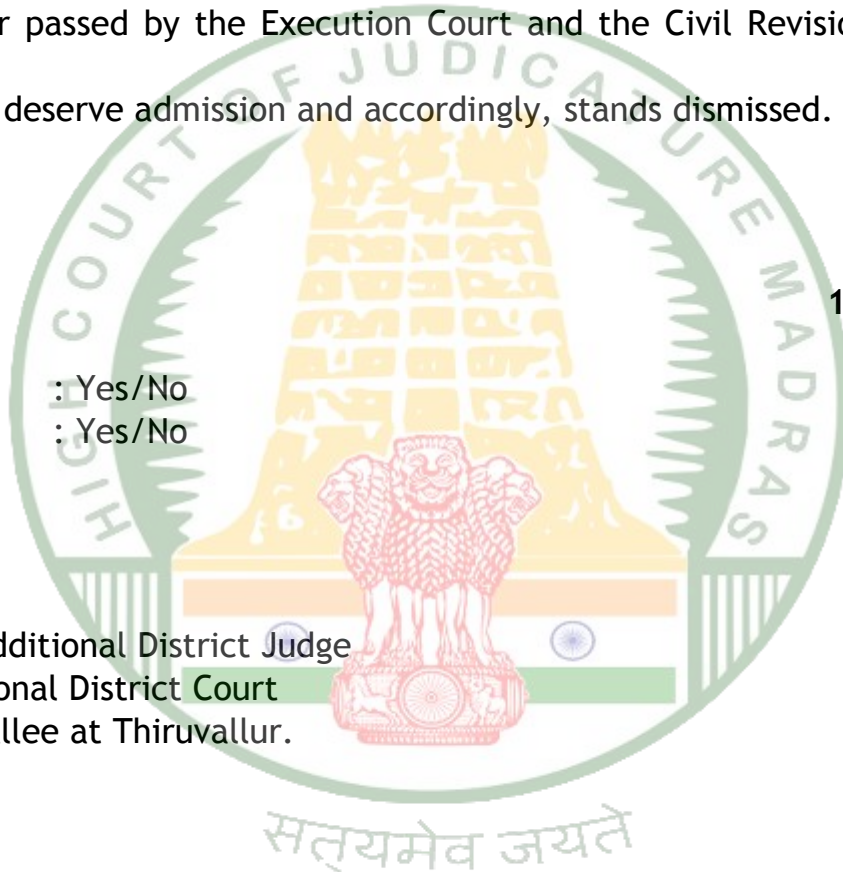
defendants and held to be valid by the Competent Courts. In such a situation, granting of stay of execution of the valid decree, does not arise. Therefore, the discretionary power exercised by the Trial Court cannot be found fault with. This Court is not inclined to interfere with the order passed by the Execution Court and the Civil Revision Petition does not deserve admission and accordingly, stands dismissed.

19.08.2019

Index : Yes/No  
Internet : Yes/No  
TK

To

The III Additional District Judge  
III Additional District Court  
Poonamallee at Thiruvallur.



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M.GOVINDARAJ, J.

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