

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

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THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP(NPD).No.4060 of 2018

and

C.M.P.No. 22404 of 2018

A.Maharajan

..Petitioner/1st Defendant

Vs

1.Ramalakshmi

..1st Respondent/ Plaintiff

2.The Sub Registrar,
Office of the Sub Registrar,
Thiruvottiyur,
Chennai-19.

..2nd Respondent/2nd Defendant

This Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 31.01.2018 in A.S.No. 26 of 2015 on the file of the Sub Court, Ponneri.

For Petitioner : M/s.N.A.Thara
For R1 : M/s.Ralph V.Manohar
For R2 : No appearance

ORDER

The above Civil Revision Petition is filed challenging the Compromise Decree, that has been passed in A.S.No.26 of 2015, on the file of the Sub Court, Ponneri. The only grievance that has been put forward by the revision petitioner, who is the husband of the first respondent/plaintiff is that the compromise memo which is accepted, does not confine to the subject matter of the suit. The revision

petitioner would contend that the compromise has been arrived at in

the appeal suit filed by the revision petitioner/husband. The appeal suit has been filed challenging the decree passed in favour of the first respondent/wife in O.S.No.180 of 2012, on the file of the learned District Munsif, Thiruvottiyur, in and by which, the suit filed by the first respondent for declaration that the Deed of cancellation of Settlement dated, 28.09.2012, registered as document No.7324 of 2012, on the file of the Sub-Registrar Office, Thiruvottiyur, is null and void and for a mandatory injunction directing the second defendant namely, the Sub Registrar, Thiruvottiyur, to remove and delete the entry of the Deed and the cancellation of the Settlement Deed dated 28.09.2012, registered as document No. 7324 of 2012, on his file. Pursuant to the terms of the compromise on 09.03.2018, the revision petitioner has also withdrawn, HMOP.No.323 of 2012, filed by him against the first respondent, on the file of the Sub Court, Tuticorin, which is not the subject matter of O.S.No.180 of 2012 and has also submitted himself to the decree in O.S.No. 180 of 2012. The Revision Petitioner has contended that he has no objection on the Sub Registrar canceling the entry with reference to the cancellation of Settlement Deed. After having acted upon the Compromise Decree, the revision petitioner has filed this Civil Revision Petition invoking provisions of Article 227 of the Constitution of India stating that, there are several cases filed by the 1st respondent against him, which have not been included in the compromise Decree and that

there has been coercion in passing of the decree.

2 Heard M/s.N.A.Thara, the learned counsel appearing on behalf of the petitioner and M/s.Ralph V.Manohar, learned counsel appearing on behalf of the 1st respondent.

3 M/s.N.A.Thara, learned counsel appearing on behalf of the petitioner, who would contend that the learned Subordinate Judge, Ponneri, has exceeded his jurisdiction in recording the compromise in respect of disputes, which are not the subject matter of the appeal and the appeal has not been taken into consideration and the Court has not protected the interest of the revision petitioner.

4 Per contra, M/s.Ralph V.Manohar, appearing on behalf of the first respondent would submit that the remedy which is available to the revision petitioner is only to file an application if permitted before the very Court which recorded the compromise and not to challenge the same and that apart having acted upon compromise, it does not lie in the mouth of the revision petitioner to now challenge the same.

5 Heard the parties and peruse the papers.

6 It is seen that the Compromise Decree has been voluntarily executed by both parties in the presence of the Subordinate Judge, Ponneri, where both had appeared in person on 31.01.2018. It is also seen that in pursuance of the said order, the revision petitioner has withdrawn HMOP.No.323 of 2012, filed by him on the file of the learned Subordinate Court, Tuticorin and letters have also been addressed to the Sub Registrar by the learned counsel for the petitioner. Having allowed the Compromise to be recorded and after acting upon the same, it does not lie in the mouth of the revision petitioner to now turn around and contend otherwise.

7 A reading of Order 23 Rule 3, would clearly indicate that the Court has jurisdiction to record a compromise with reference to the subject matters which are not the subject matter of the suit provided, it relates to the parties to the suit. It is in pursuance of this provision of law that the compromise has been entered into between the parties in A.S.No. 26 of 2015 which also recorded the withdrawal of HMOP.No. 323 of 2012 as well as the Criminal complaint in C.C.No. 2899 of 2016 pending on the file of the learned XV Metropolitan Magistrate, George Town, Chennai. Allegation that the compromise has not included the suits filed by the wife also fails on account of the fact that the compromise has been

voluntarily entered into by the revision petitioner and nothing prevented him from raising this issue then. The compromise cannot be challenged by way of the Civil Revision Petition under Article 227 of the Constitution of India and no fraud has been made out.

8 In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

11.03.2019

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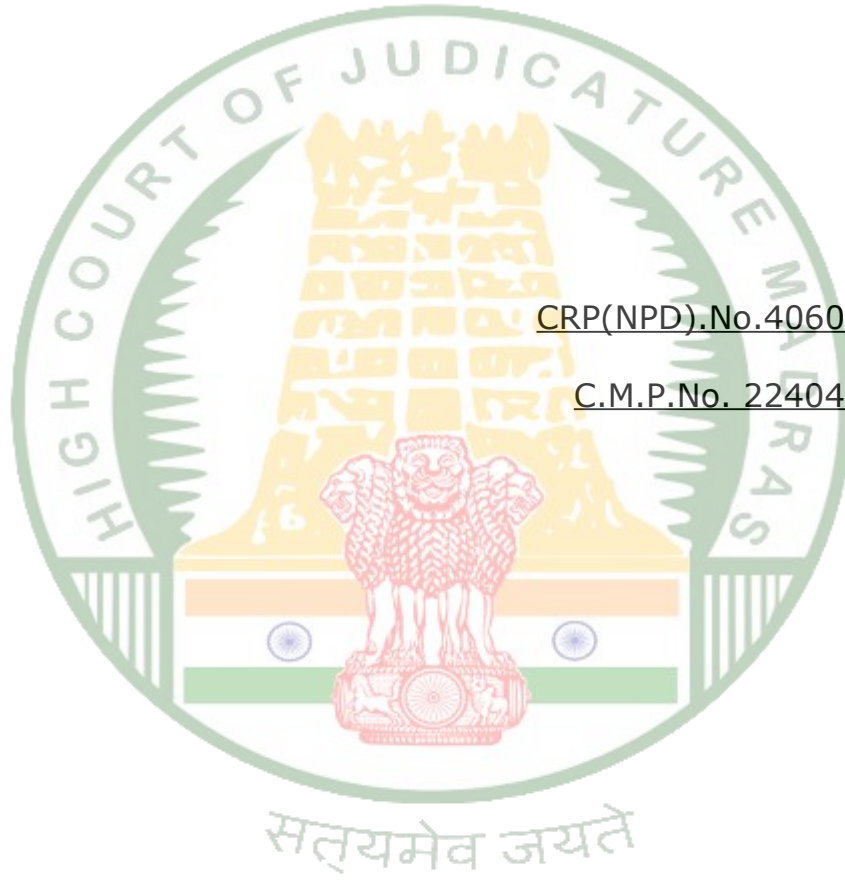
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Internet: Yes/No
Speaking order / Non-speaking order

To
The learned Sub Court,
Ponneri.

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P.T.ASHA, J.
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