



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.11.2019**

CORAM :

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

C.R.P. (MD) No.1834 of 2013

and

M.P. (MD) No.1 of 2013

WEB COPY

- 1.Gurusamy Naidu (died)
- 2.Subbulakshmi
- 3.Ayyalu
- 4.Santhi
- 5.Ayyammal
- 6.Panchavarnam
- 7.Gurusamy
- 8.Sudha
- 9.Mahalakshmi
- 10.Parameshwaran

(petitioners 2 to 10 are brought on record as Lrs of the deceased sole petitioner vide order dated 23/06/2015 made in MP.1/14 in CRP.1834/2013) ... Petitioners

vs.

Soosaimanickam

... Respondent

Prayer:- This Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 02.09.2013 passed in E.P.No.58 of 2011 in O.S.No.33 of 2000 by the learned District Munsif, Nilakkottai.

For Petitioners : Mr.J.Barathan
For Respondent : Mr.Babu Rajendran

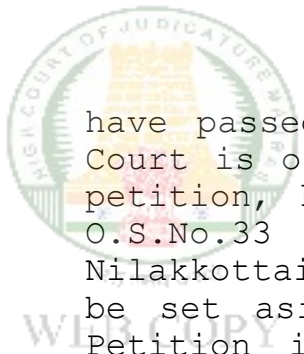
ORDER

The above Civil Revision Petition is filed challenging the order passed in E.P.No.58 of 2011 in O.S.No.33 of 2000 on the file of the learned District Munsif, Nilakkottai.

2.The judgment debtor in the suit O.S.No.33 of 2000 is the petitioner before this Court.

3.The learned counsel appearing for the petitioners would submit that the plaintiff has filed an execution petition in E.P.No.58 of 2011 for the civil arrest of the judgment debtor for disobeying the order of the trial Court. The learned District Munsif, Nilakkottai, has allowed the said petition by stating that only if the defendant arrested, the decree of the trial Court would be complied with.

4.Considering the facts and circumstances of the case that the judgment debtor is now no more and the learned Judge ought not to



have passed the order for the reasons quoted in the order. This Court is of the view that though nothing survives in the execution petition, however since the orders passed in E.P.No.58 of 2011 in O.S.No.33 of 2000 on the file of the learned District Munsif, Nilakkottai, was not based on legal principles the order deserves to be set aside and is accordingly set aside. The Civil Revision Petition is allowed on these peculiar circumstances. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (w)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

mm

To

The District Munsif,
Nilakottai.

+1 CC to M/s.BABU RAJENDRAN, Advocate (SR-97800[F] dated 13/11/2019

+1 CC to M/s.T.R. JEYAPALAM, Advocate (SR-97864[F] dated 13/11/2019

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SMA/13/01/2020/2P/4C