

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. NPD 614 of 2020

C.Paranjothi ... Petitioner

Versus

Dharmamurthy Rao Bahadur
Calavala Cunnan Chetty's Charities,
rep. by its President.

1. Mr.C.N.Alwar Chetty (died)

Other Trustees,

2. C.Ethiraj (died)

3. C.Emperumanar Gupta (resigned)
(died)

rep. by M.V.Cunniah Chetty

4. M.V.Cunniah Chetty

5. C.Venkatachalam

6. V.Sethuram

7. V.R.Bakthavatsalam

8. Vummidi Sreehari

9. S.Nandagopal (died)

10. M.Venkatesaperumal

11. T.Praveen (appointed)

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of
Constitution of India, praying to set aside the fair order and

decree passed in E.A. 1 of 2019 in E.P. 1923 of 2018 in O.S. 3291 of 2000 by the learned IX Asst. Judge, City Civil Court, Chennai dated 07.01.2020.

For Petitioner : Mr.T.S.Rajamohan

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application filed under Order XXI Rule 26 of C.P.C. to stay the execution of the exparte decree.

2. The petitioner is a judgment debtor. The respondent landlord filed a suit for vacating, handing over possession of the suit premises, and also for consequential injunction. The suit was filed in the year 2000. Thereafter, an exparte decree was passed on 22.02.2017, and the decree holder filed Execution Petition seeking for possession. In the above E.P., the petitioner has filed an application to stay of all further proceedings. That application came to be dismissed by the execution court. Challenging the same, the present Civil Revision Petition has been filed.

3. I have heard Mr.T.S.Rajamohan, learned counsel appearing for petitioner and perused the records carefully.

4. The suit has been filed in the year 2000. The petitioner has also appeared in the suit, and filed his written statement. Thereafter, he did not appear. Hence, he was set exparte, and an exparte decree was passed in the year 2017, and the Execution Petition filed seeking possession. In the E.P., the petitioner said to have taken time for filing counter from 09.01.2019. Thereafter, the present application has been filed on the ground that, already he has filed an application to set aside the exparte decree, and in the above application, enquiry is pending. Till the application is disposed of, the petitioner has sought to stay the execution of exparte decree passed in the suit. The Trial Court, after considering the materials, has dismissed the application holding that, even though the petitioner has contested the suit, he did not take any steps to get the exparte decree set aside. That apart, no materials has been placed before the execution court to show that, the petitioner has taken steps to set aside the exparte decree. I have also considered the materials, the petitioner was set exparte, and an exparte decree also passed against him, so far, the petitioner has not got the exparte decree

set aside. In the above circumstances, as on today, the decree is in force. Hence, the execution court has no other go except to proceed with the suit. The Execution Court has rightly dismissed the application, I find no illegality or irregularity in the order passed by the court below, and I find no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs.

14.02.2020

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

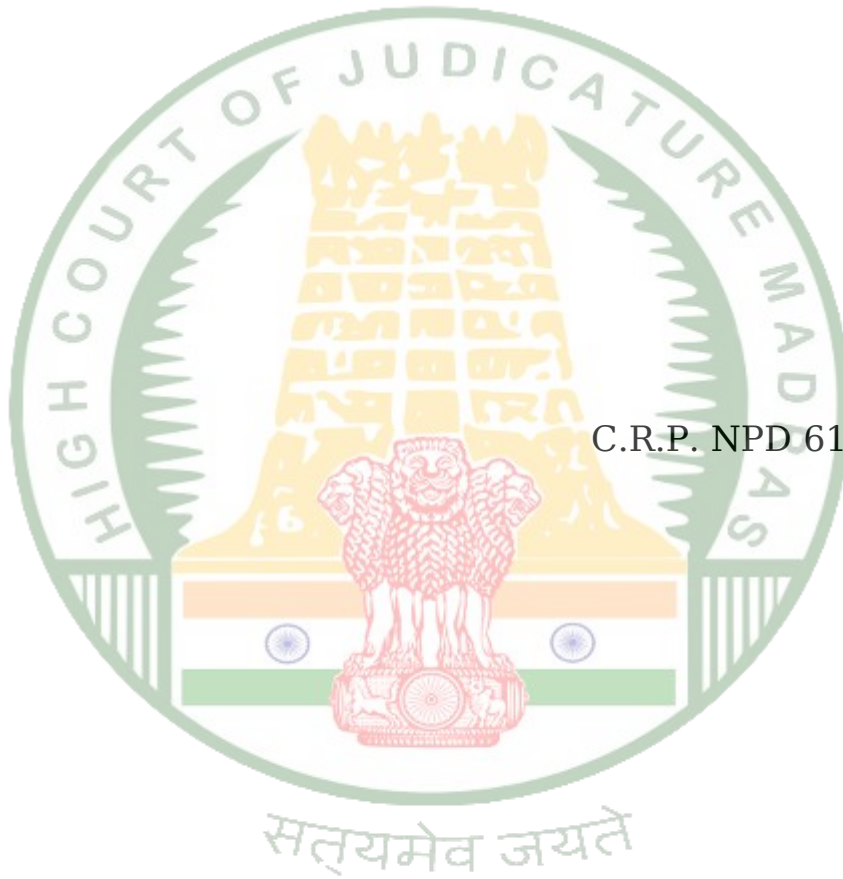
IX Asst. City Civil Court,
Chennai.



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V.BHARATHIDASAN,J.

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