

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

**C.R.P(NPD)No.1179 of 2020
and C.M.P.No.6346 of 2020**

D.Govindarajan

...Petitioner

Versus

K.Thanigaivel

....Respondent

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to strike off the E.A.No.163 of 2019 in E.P.No.55 of 2008 in O.S.No.63 of 2002 on the file of the Court of Subordinate Judge, Poonamallee.

For Petitioner

Mr.S.Raghavan

ORDER

The relief sought for in this Civil Revision Petition is to strike off the plaint filed by the respondent in E.A.No.163 of 2019 in E.P.No.55 of 2008 in O.S.No.63 of 2002 on the file of the Subordinate Court, Poonamallee.

2. It is the case that the petitioner filed a suit O.S.No.63 of 2002 before the Subordinate Court, Poonamallee for declaration of his title to the suit property and for recovery of vacant possession of the suit property. On 31.01.2008, the said suit was decreed in favour of the petitioner. Against the said judgment and decree, the respondent filed an Appeal in A.S.No.43 of 2008, however, the said Appeal was dismissed by the learned Additional District Judge (Fast Track Court No.I), Poonamallee on 25.02.2010. Aggrieved by the dismissal of the said Appeal, the respondent filed a Second Appeal in S.A.No.463 of 2010 before this Court and the same was dismissed by this Court vide judgment dated 14.09.2011. However, the respondent again filed a Review Application No.216 of 2011 before this Court challenging the judgment passed in the Second Appeal and the same was also dismissed by this Court.

2.1 Also, the respondent filed E.P.No.55 of 2008 against the petitioner and while the same was pending on the file of the Subordinate Court, Poonamallee, the respondent filed E.A.No.52 of 2013 under Order 21

Rule 97 of C.P.C. Therefore, the learned Subordinate Judge, Poonamallee dismissed E.A.No.52 of 2013. In that stage, the respondent filed E.A.No.163 of 2019 before the Subordinate Court, Poonamallee under Section 47 of C.P.C praying to declare that the decree obtained by the petitioner in O.S.No.63 of 2002 is inexecutable and dismiss E.P.No.55 of 2008 with costs. Aggrieved by the prayer sought for by the respondent in E.A.No.163 of 2019, the petitioner has preferred the present Civil Revision Petition for the relief stated supra.

3. The learned counsel for the petitioner submitted that being a judgment debtor the respondent did not succeed in his case not only before the Courts below but also before this Court. The unnecessary applications filed by the respondent clearly show his intention to drag on the proceedings. He therefore prayed that the present Civil Revision Petition may be allowed.

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4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. In view of the facts and circumstances of the case, this Court cannot entertain the present Civil Revision Petition only on the basis of the decree obtained by the petitioner in his favour. Therefore, this Court feels that it would be appropriate to direct the Execution Court to dispose of E.A.No.163 of 2019.

6. Accordingly, the learned Subordinate Judge, Poonamallee is directed to dispose of E.A.No.163 of 2019, as expeditiously as possible, on or before 30.06.2020.

7. This Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

17.03.2020

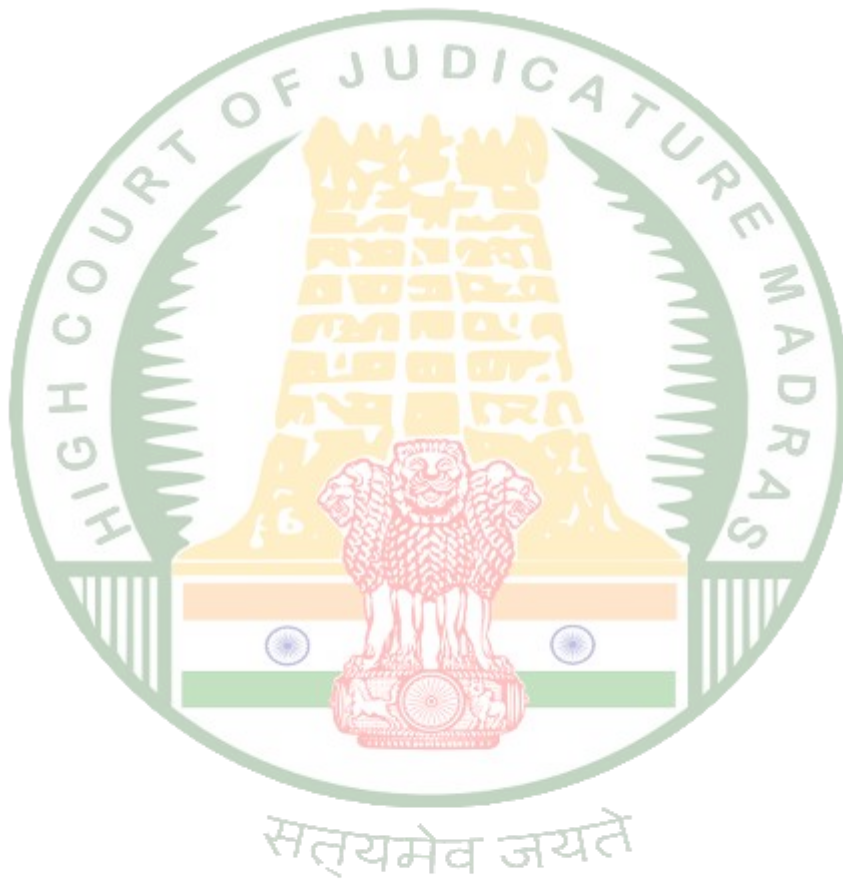
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Index : Yes/No

Note: Issue Order copy on 22.05.2020

To

The Subordinate Judge,
Poonamallee.



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D.KRISHNAKUMAR, J.,

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