

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2566 of 2018
and CMP No.15486 of 2018

Krishnamoorthy

...Petitioner

Vs.

1. Shanmugam
2. Pazhanisamy
3. Chandra
4. Chinnaponnu
5. Pichammal

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, praying to struck off E.P.No.1 of 2014 in O.S.No.3 of 2003 pending on the file of the Subordinate Court, Kallakurichi.

For Petitioner

: Ms.S.Buvaneswari

For Respondents

: Mr.K.Shanmugakani (for R1)

No appearance (for R2 and R4)

ORDER

This revision has been filed under Article 227 of the Constitution of India seeking to strike out the execution proceedings in E.P.No.1 of 2014.

2. The reasons for seeking such extraordinary prayer, according to the learned counsel for the petitioner is that though the petitioner's father died on 30.09.2006, the Execution petition has been filed in the year 2014 showing him as the 1st respondent. It is also claimed that his Vakalat has been forged and filed in the Execution petition. These facts, even if they are true, cannot form the basis for rejecting the execution petition. It is open to the petitioner to raise all these factual issues before the Executing Court and I am sure that the Executing Court will decide these questions also when it decides the Execution petition.

3. The Hon'ble Supreme Court has in ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and others Vs. Tuticorin Educational Society and another*** reported in ***2019 (5) CTC 696*** held that this Court should not interfere under Article 227 of the Constitution of India when a

remedy is available under the Code of Civil Procedure before the Court concerned.

4. In view of the same, I do not find any need to interfere under Article 227 of the Constitution of India at this juncture. The revision is therefore dismissed without going into the merits, leaving it open to the parties to raise all issues before the Executing Court. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order / Non speaking order

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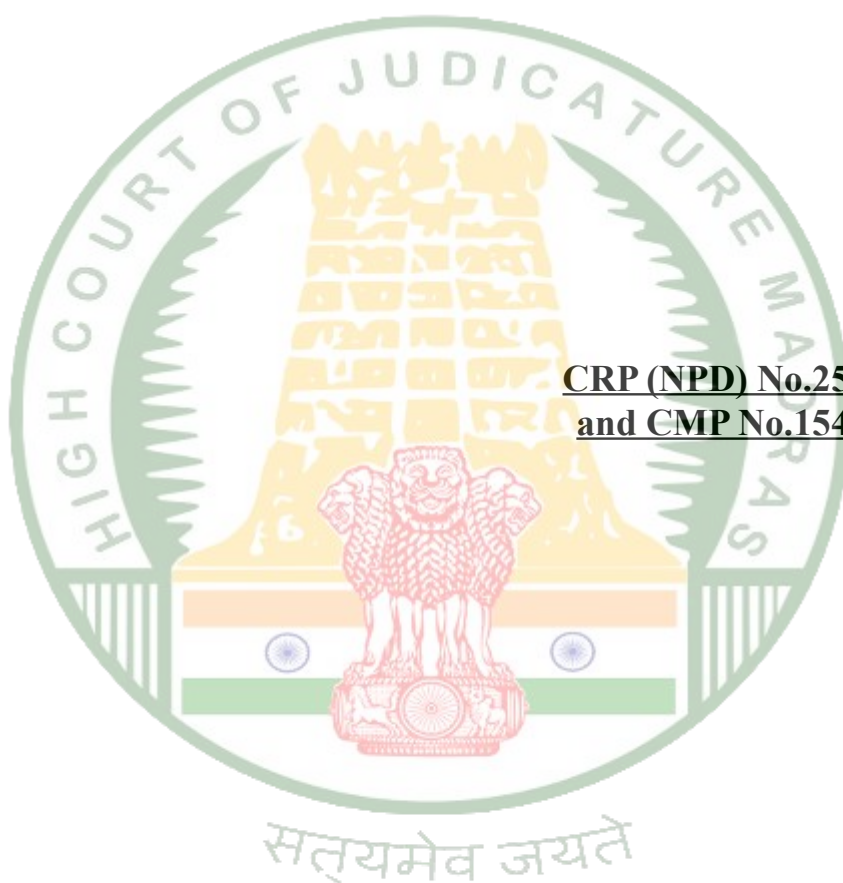
The Subordinate Court, Kallakurichi.

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R.SUBRAMANIAN, J.

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