

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.2930 of 2018

and

C.M.P.No.17102 of 2018

1. Subbayal

2. Krishnamoorthy

3. Saravanakumar

.. Petitioners

Vs.

1. Thiagarajan

2. Sumathi

.. Respondents

Prayer: Petition filed under Section 115 of C.P.C, pleaded to set aside the fair and final order dated 14.08.2018 passed in E.P.No.7 of 2018 in O.S.No.2/2017 on the file of the Third Additional District and Sessions Court, Erode @ Gobichettipalayam by allowing the present revision.

For Petitioner : Mr.I.C.Vasudevan

For Respondent : Mr.Sairam Gamapathy for R1 & R2

ORDER

The defendants/Judgement debtors in O.S.No. 2 of 2017 have come up with this Civil Revision Petition challenging the order for execution of

sale deed passed in E.P.No.7 of 2018. The suit was decreed exparte on 24.08.2017. It is claimed that a petition was filed on 19.09.2017 seeking to set aside the Exparte Decree and it was neither returned nor numbered. Without even numbering the same, the learned Trial Judge has passed the order for execution of sale deed. It is also submitted by the learned counsel appearing for the petitioner that a C.F.R.No.5411/2017 has been assigned for the said unnumbered petition. Since the grievance of the petitioners related to the procedure adopted by the Court and the counsel for the respondents was not in a position to either deny or affirm the claim I had called for a report from the Learned Additional District Judge, Gobichettipalayam.

2. The learned Third Additional District and Sessions Judge, Erode @ Gobichettipalayam has sent a report stating that an application to set aside the exparte order was filed by the second defendant in the suit under Order 9 Rule 7 and Sec.151 of C.P.C. on 01.08.2017 and the same was assigned C.F.R.No.4439/2017. The said petition was returned on the same day for the

reason that it was not accompanied by the written statement and two weeks time was granted for representation.

4. It is further stated that without representing the said petition, a docket for filing documents was filed on 19.09.2017 which was assigned CFR No:5411/2017. The learned Additional District Judge had very clearly stated that no petition in C.F.R.No.5411/2017, is pending to set aside the exparte decree.

5. In view of the same, the challenge to the order of the Executing Court fails. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2020

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Internet: Yes/No

Index: Yes/No

To

The Third Additional District and Sessions Court,

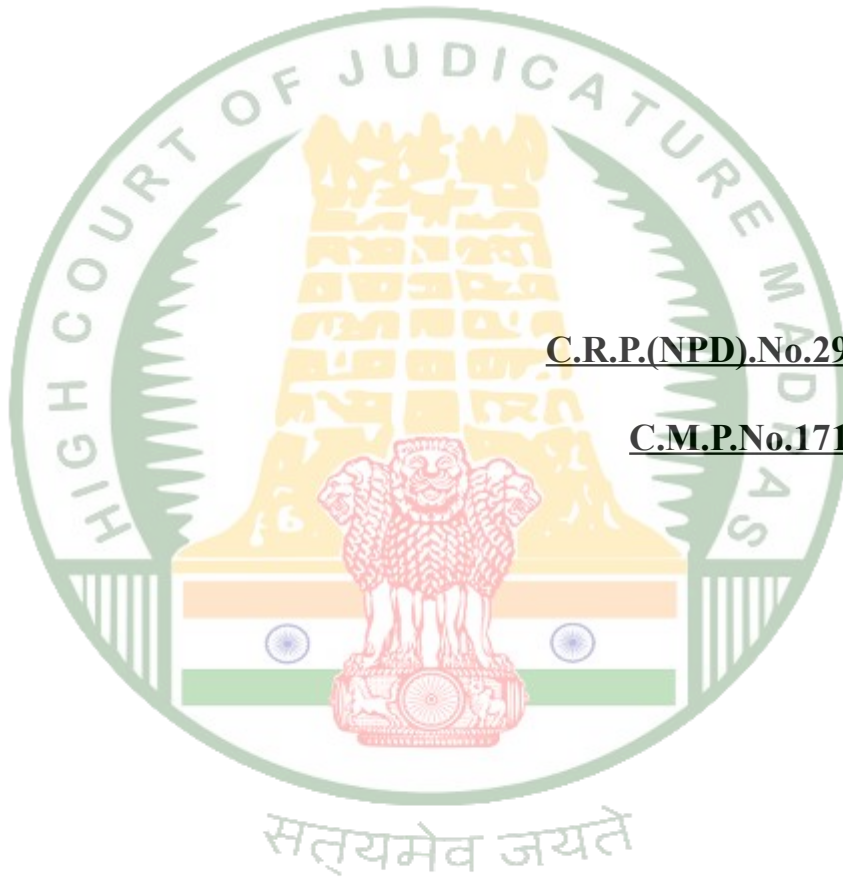
Erode @ Gobichettipalayam

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R.SUBRAMANIAN, J.

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