

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P.(NPD).No.2334 of 2020

- 1.Mrs.Santhi
- 2.Radhakrishnan
- 3.Sasikala
- 4.Sathish

...Petitioners

Vs.

- 1.Mr.Palanivelu
Govindammal (died)
Lourdusamy (died)
- 2.Franceisca Marie
- 3.Chinnathambee
Vincent (died)
- 4.Raj @ Pushparaj
- 5.Yesu @ Pugazhendhi
- 6.Sankar @ Antonisamy Sankar
- 7.Aru Prakasa Marie (Minor)
- 8.Amalorpava Marie (Minor)
- 9.Sekar (Minor)
- 10.Kanagavalli
- 11.Duraikannou
- 12.Elizabeth Marie
- 13.Josephine Fransisca (Minor)
- 14.Stephen Arokiaraj (Minor)

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the petition Docket order dated 21.12.2020 in E.P.No.181 of 1998 in O.S.No.154 of 1985 passed by the Additional Sub Judge, Pondicherry and set aside the same.

For Petitioners : Mr.R.Sreedhar

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed by the petitioner against the docket order dated 21.12.2020 passed in E.P.No.181 of 1998 in O.S.No.154 of 1985 passed by the learned Additional Sub Judge, Pondicherry, ordering delivery of suit property by 06.01.2020.

2. The first respondent is the plaintiff in the suit in O.S.No.154 of 1985 filed for declaration and delivery of vacant possession in respect of suit schedule mentioned property. Though the said suit was dismissed by the trial Court, on appeal, it was allowed and thereby, the first respondent succeeded in the suit. Thereafter, the first respondent filed Execution Petition in E.P.No.181 of 1998 seeking delivery of the suit property, wherein, by order dated 21.12.2020, the Executing Court ordered delivery of suit property.

Aggrieved by the same, the petitioners who are the Judgement Debtors, have come forward with the present Revision Petition.

3. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

4. The learned counsel for the petitioners has submitted that the property which is intended to be delivered by way of executing the decree is something different from the property available on the site.

5. Earlier petition filed by the first respondent before the Executing Court in E.A.No.34 of 2020, for the purpose of amending the property particulars, has been 'dismissed as not pressed'. Since no other interim petition is pending or no suit is also pending, delivery seems to have been ordered. The decree of the lower Court said to have been attained finality. The applicant has also not taken any steps to file any appropriate suit to declare the decree as null and void, since the suit property itself does not match with the property in the field. In that case, pursuant to the warrant, it is open to the Amin to go to the

suit property and verify whether the suit shcedule property and the property on the site are one and the same. In case, it is different, the Amin could make relevant entries and it is up to the Executing Court to decide about further action or to receive objections from any other interested third person.

6. From the above narration, I find no reason to stay the operation of the Docket order of the learned Additional Sub Judge, Pondicherry, in which delivery is ordered. However, it is open to the petitioners to file an urgent petition before the Executing Court itself to get a specific direction to Amin, who is effecting delivery to verify the correctness of the property, that has to be delivered.

7. However, as there is no merit in this Revision Petition, the same is accordingly, rejected. Consequently, connected miscellaneous petition is closed. No costs.

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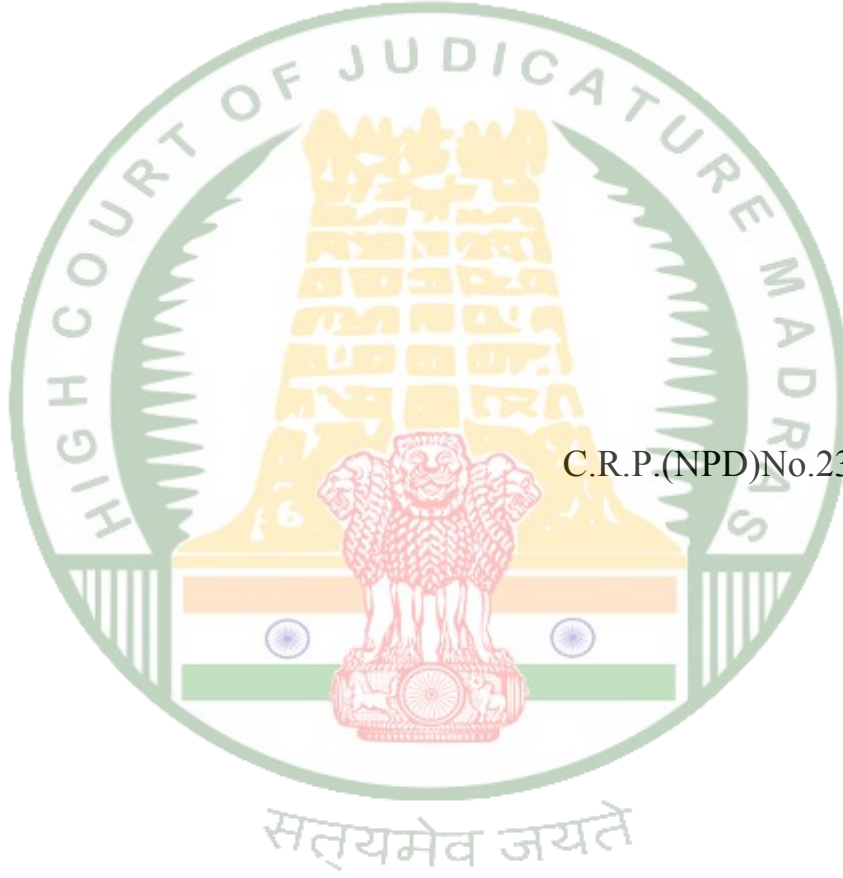
Index :: Yes / No

Speaking Order :: Yes/No

pns

R.N.MANJULA., J.

pns



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