

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(NPD) No.1851 of 2015

and

MP.No.1 of 2015

V.Mani
S/o.Velayudham

... Petitioner

Vs.

Manjula

... Respondent

Prayer:-

Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the the order and decretal order passed in E.P.No.283 of 2013 in O.S.No.201 of 2010 dated 06.04.2015 on the file of the Principal District Munsif, Cuddalore and allow the Civil Revision Petition.

For Petitioner : Mr.T.R.Rajaraman
For Mr.V.V.Sairam

For Respondent : Mr.M.Murugesan

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 06.04.2015 passed in E.P.No.283 of 2013 in O.S.No.201 of 2010 on the file of the Principal District Munsif, Cuddalore thereby, order arrest of the petitioner herein.

2. The petitioner is the defendant in the suit filed by the respondent for bare injunction in respect of the suit property. The suit was filed on 10.05.2010. On perusal of records revealed that for the very same property, the petitioner's wife entered into an agreement of sale with the vendor of the respondent herein on 05.02.2010. While pending the said agreement, the respondent and her husband were put in possession of the suit property and thereafter, the petitioner-vendor executed sale deed dated 15.03.2010. On the strength of the said sale deed, the respondent filed the present suit. While pending the said suit, the petitioner's wife also filed a suit for specific performance in O.S.No.201 of 2010 as against the respondent-vendor. The suit was decreed in favour of the petitioner's wife. Thereafter, she filed an Execution Petition in EP.No.80

of 2012 and in the Execution Petition, the sale deed was executed in favour of the petitioner's wife vide registered sale deed dated 21.01.2012. In fact, the delivery was also effected on 03.02.2013. In the meanwhile, the suit filed by the respondent, the petitioner failed to appear before the Court and as such, he was set ex-parte and ex-parte decree order was passed on 31.01.2012. In pursuant to the said decree, the respondent filed execution petition alleging that the petitioner deliberately took possession of the suit property and violated the order passed in O.S.No.201 of 2010. Whereas, the wife of the petitioner filed a suit for specific performance and the same was decreed by judgment and decree dated 11.03.2011. Before filing execution petition, the petitioner's wife died and as such the petitioner herein filed execution petition in EP.No.80 of 2012, thereafter, delivery of the same was effected on 03.02.2013. It is also seen that after filing the execution petition, the petitioner's wife also filed a suit for declaration and injunction for the very same property in O.S.No.22 of 2014 on the file of the Principal Sub Court, Cuddalore and it is pending for trial. Therefore, the petitioner never violated the order passed by the Court below and in pursuant to the

sale deed and also delivery effected only in the execution proceedings in EP.No.80 of 2012.

3. In view of the above, this Civil Revision Petition is allowed and the order passed in E.P.No.283 of 2013 in O.S.No.201 of 2010 dated 06.04.2015 on the file of the Principal District Munsif, Cuddalore, is hereby set aside. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order/Non-speaking order

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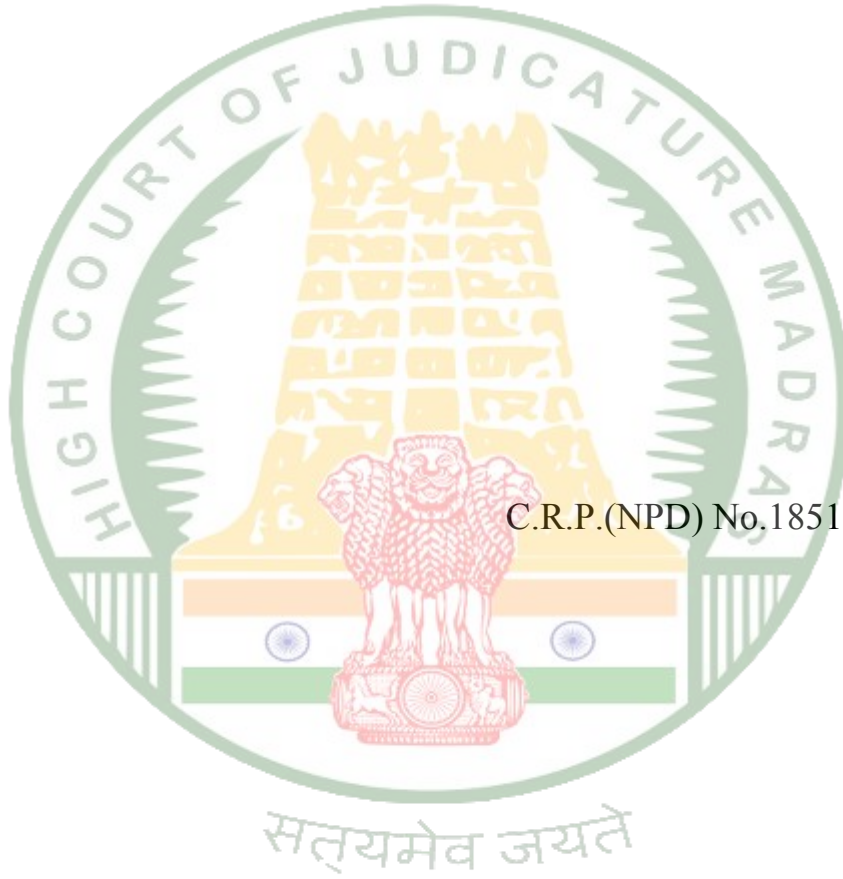
To

1. The Principal District Munsif,
Cuddalore.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN, J.

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