

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.919 of 2021  
and  
C.M.P.No.7462 of 2021

Govindaraj

... Petitioner/Petitioner/Judgment Debtor/Plaintiff  
Vs

1.Vijayan

... 1<sup>st</sup> Respondent/Respondent/Decree Holder/3<sup>rd</sup> Defendant

2.Murugesan

... 2<sup>nd</sup> Respondent/Respondent/Respondent/4<sup>th</sup> Defendant

Civil Revision Petition filed under Section 115 of C.P.C., to set aside the order dated 04.02.2021 passed in E.A.No.188 of 2020 in E.P.No.8 of 2020 in O.S.No.453 of 2010 on the file of the Additional District Munsif Court, Vellore District.

For Petitioner

..

Mr.M.Gouthaman

For Respondents

..

No appearance

**ORDER**

The present Revision Petition has been filed by the petitioner in E.A.No.188 of 2020 in E.P.No.8 of 2020 which Execution Petition had been filed in O.S.No.453 of 2010. The Execution Petition is now pending on the file of the Additional District Munsif Court, Vellore.

2.The revision petitioner had obtained a decree in O.S.No.453 of 2010 and obtained an adverse order in the First Appeal. The Second Appeal in S.A.178 of 2019 is now pending. It is stated by the learned counsel for the petitioner, that while moving the Second Appeal for admission, necessary application to stay further proceedings pursuant to the decree had been filed, but the learned Single Judge had only directed notice.

3.Naturally, since notice alone had been directed, the respondent/decree holder had proceeded further by filing Execution Petition. In that Execution Petition, E.A.No.188 of 2020 came to be filed under Order XXI Rule 26 of CPC., whereby stay is granted to enable the Judgment Debtor to apply to the Court having appellate jurisdiction for an order to stay or for any other order relating to the decree or execution.

4.It is therefore seen that such discretion is granted to the

Judgment Debtor till application for stay is filed before the appellate court. The appellate court has already been moved in S.A.No.1287 of 2019 and the same is pending. The relief for the petitioner is to urge the said Court, to atleast hear the Civil Miscellaneous Petition for stay.

5.I find the Additional District Munsif, Vellore, before whom the said application in E.A.No.188 of 2020 was filed had dismissed the same. He had observed that the Trial Court had passed a decree on 02.12.2019 calling upon the present petitioner to deliver the property to the respondent herein. He had stated that the Executing Court may proceed further unless stay is granted by the appellate courts and there is no stay of Execution Petition. The Revision Petition has been filed more out of desperation.

6.With the above observations, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Internet: Yes/No

Index: Yes/No

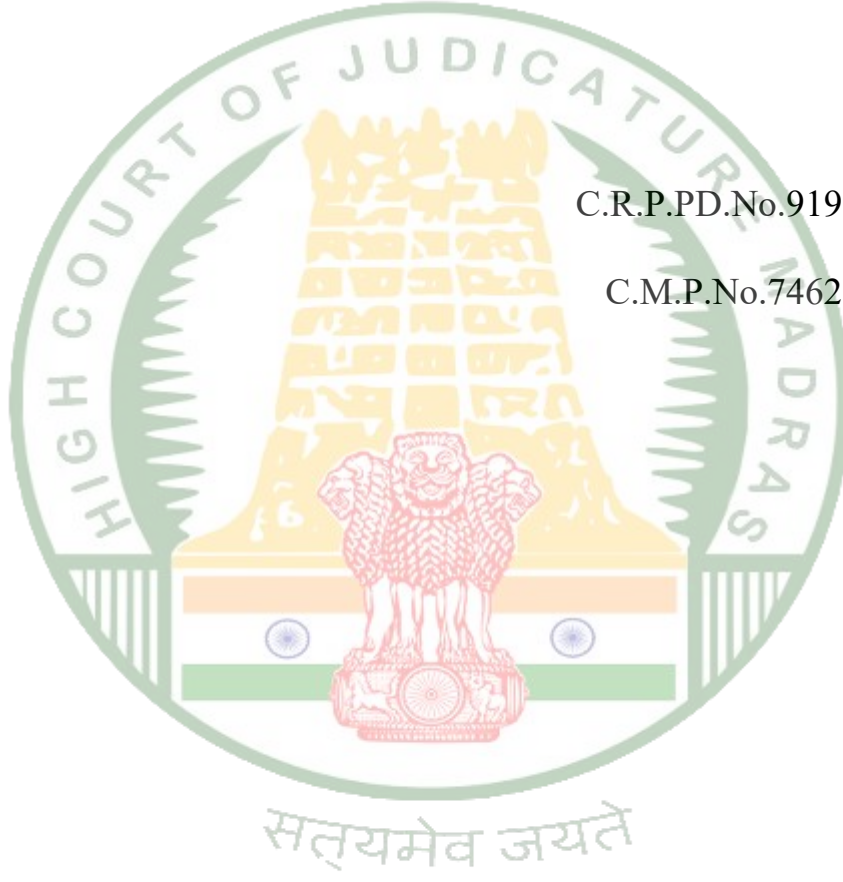
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To

The Additional District Munsif Court, Vellore.

**C.V.KARTHIKEYAN,J.**

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