

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(NPD).No.1814 of 2018
and C.M.P.No.10206 of 2018

K.Dayalan

... Petitioner

Vs

Arulmighu Karaneeswarar Temple
Represented by its Trustees

1.R.Jagannathan
2.R.Ramakrishnan
3.K.Sankaran
having office at Arulmighu Karaneeswarar,
No.1, Karaneeswarar Koil Street,
Devasthanam, Saidapet, Chennai - 15.

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the Fair and Decretal Order dated 10.04.2018 made in E.A.No.6004 of 2014 in E.P.No.3959 of 2011 in O.S.No.11634 of 1989 on the file of IX Assistant, City Civil Court, Madras.

For Petitioner : Mr.M.S.Subramanian

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed against a Fair and Decretal Order dated 10.04.2018 made in E.A.No.6004 of 2014 in E.P.No.3959 of 2011 in O.S.No.11634 of 1989 on the file of the IX Assistant, City Civil Court, Madras, thereby dismissing the petition filed under Section 47 of Civil Procedure Code.

2. The petitioner is a Judgment Debtor. The suit filed by the respondents herein for recovery of possession. The suit was decreed and the suit was went up to this Court in S.A.No.1135 of 2002. While dismissing the Second Appeal, this Court observed that *"I do not find any scope to interfere with the concurrent findings of both the Courts below, except stating that the said decree will not in any way Affect the possession of the*

appellant in respect of Door No.5 with reference to which, admittedly, even the respondents do not claim any right over the said property".

3. On the observations, the petitioner filed the petition under Section 47 of Civil Procedure Code stating that the Decree Holder has attempted to mislead and has attempting to take possession of Door No.5 which stands in the name of petitioner's wife instead of Door No.6 which is explicit from the notice issued in E.A.No.328 of 2014 which appears to be an application for removal of obstruction. Further, prevailed that the decree holder can only execute the decree as obtained and not go beyond the decree. However, the Court below dismissed the same by observing that the petitioner has not mentioned specific schedule of property in the appropriate column of the petition and schedule of property stated in paragraph 3 alone that is pertaining in Door No.6 and the petitioner also not proved that Door No.5 and the suit Survey Number are one and the same.

WEB COPY

4. Therefore, this Court finds no merit in this Civil Revision Petition to interfere with the order passed by the Court below. It is made clear that the Execution Court cannot go beyond the decree passed by the trial Court.

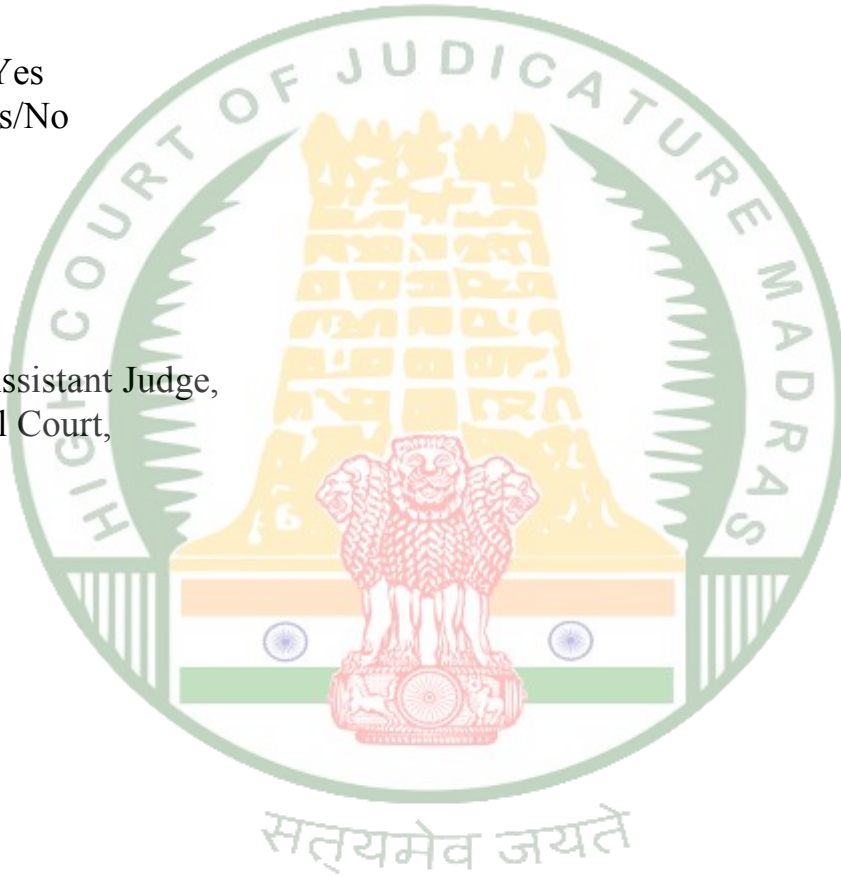
5. Accordingly, this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

29.04.2021

Internet: Yes
Index: Yes/No
rma

To

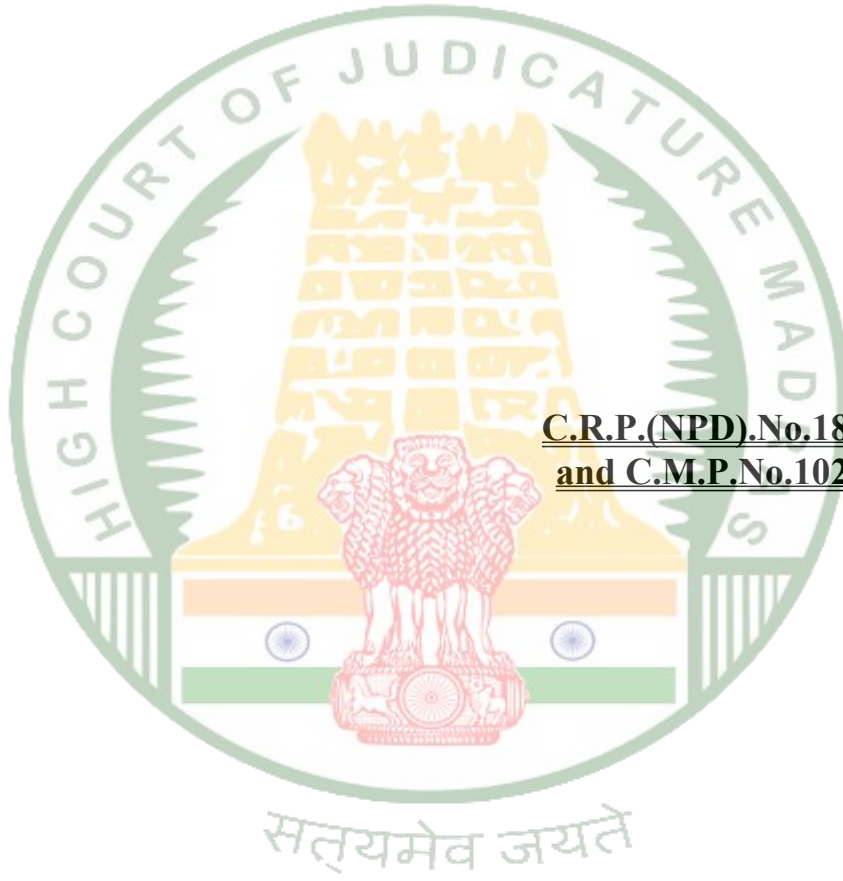
The IX Assistant Judge,
City Civil Court,
Madras.



WEB COPY

G.K.ILANTHIRAIYAN. J,

rna



C.R.P.(NPD).No.1814 of 2018
and C.M.P.No.10206 of 2018

WEB COPY

29.04.2021