

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2021

CORAM:

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

CRP (NPD) No.2245 of 2018

and

C.M.P.No.14074 of 2018

Muthammal

... Petitioner

Vs.

1. P.Murugesan

2. The Senior Divisional Finance Manager,
South Western Railway Bangalore Division,
Bangalore – 560 023.

[Amended as per order in I.A.No.48/2011 dated 10.07.2012]

... Respondents

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair order and decretal order dated 05.01.2018 passed in R.E.A.No.2 of 2017 in R.E.P.No.9 of 2015 in O.S.No.01 of 2008 on the file of the Family Court at Salem.

For Petitioner : Mr.A.L.Rajaraman

For Respondents : No Appearance (for R-1)
: Mr.M.Gnanasekar for
Mr.P.Srinivasan (for R-2)

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in R.E.A.No.2 of 2017 in R.E.P.No.9 of 2015 in O.S.No.01 of 2008 dated 05.01.2018 on the file of the Family Court at Salem, thereby dismissing the petition for raising attachment as per the order dated 11.07.2016.

2. The petitioner is the plaintiff and the first respondent is the first defendant and second respondent is the second defendant/garnishee. The petitioner filed the suit for maintenance and the same was decreed and the first respondent was directed to pay a sum of Rs.500/- per month for maintenance and Rs.1,500/- as yearly maintenance. Subsequently, it was enhanced to a sum of Rs.2,500/- as monthly maintenance and Rs.4,500/- as yearly maintenance payable by the first respondent. The petitioner and the first respondent are the husband and wife and out of their wedlock, they gave birth to two children. The daughter of the petitioner is physically handicapped and divorced and she is depending upon the petitioner herein. Since the maintenance had been enhanced, the petitioner filed an Execution Petition and by an order dated 11.07.2016, the Court below ordered attachment of salary to the tune of Rs.3,500/- per month from the Pension of the first respondent herein, whereas, the second respondent failed to attach the monthly maintenance as directed

by the Court below. Therefore, the petitioner filed a petition to raise the attachment order and direct the second respondent to attach the Pension as directed by the Execution Court. The Court below dismissed the petition for the reason that the first respondent received a sum of Rs.5,532/- as monthly Pension and as such, refused to raise the order of attachment to the tune of Rs.3,500/-.

3. The learned counsel for the second respondent submitted that the first respondent is receiving monthly pension at Rs.15,161/- per month. The first respondent also produced his statement of the Bank and it reveals that the first respondent received a sum of Rs.15,161/- as monthly pension.

4. In view of the above discussion, the order passed by the Court below is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the order passed in R.E.A.No.2 of 2017 in R.E.P.No.9 of 2015 in O.S.No.01 of 2008 dated 05.01.2018 is hereby set aside. The second respondent is directed to attach a sum of Rs.3,500/- per month from the Pension of the first respondent till the payment of entire arrears of maintenance payable by the first respondent. Consequently, the connected Miscellaneous Petition is closed. No costs.

14.06.2021

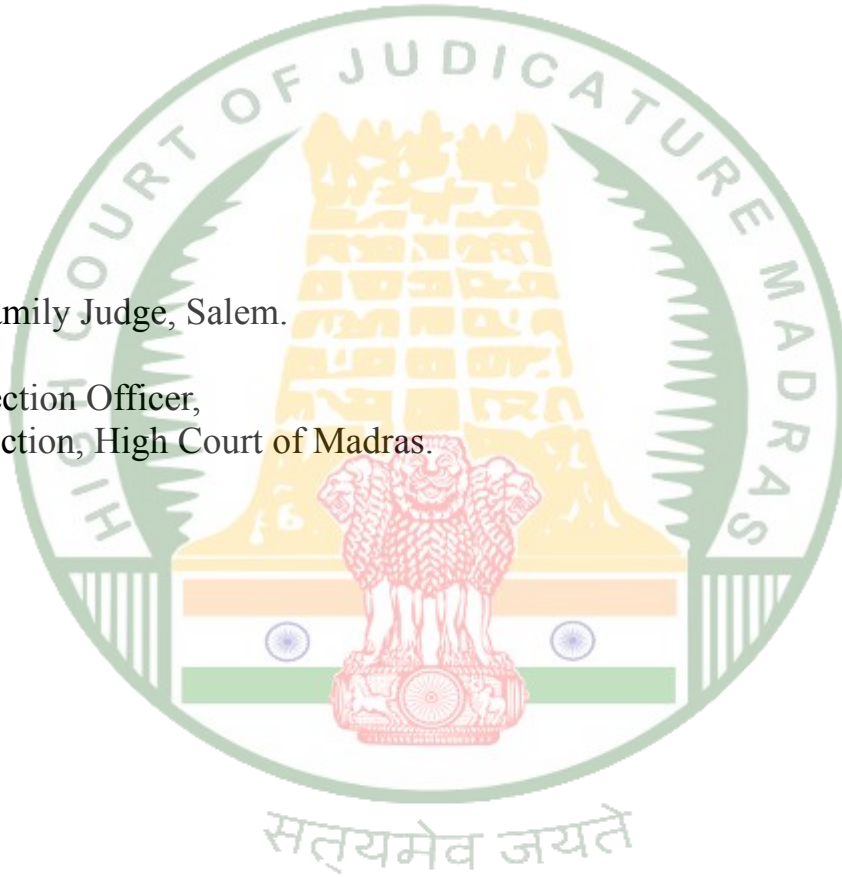
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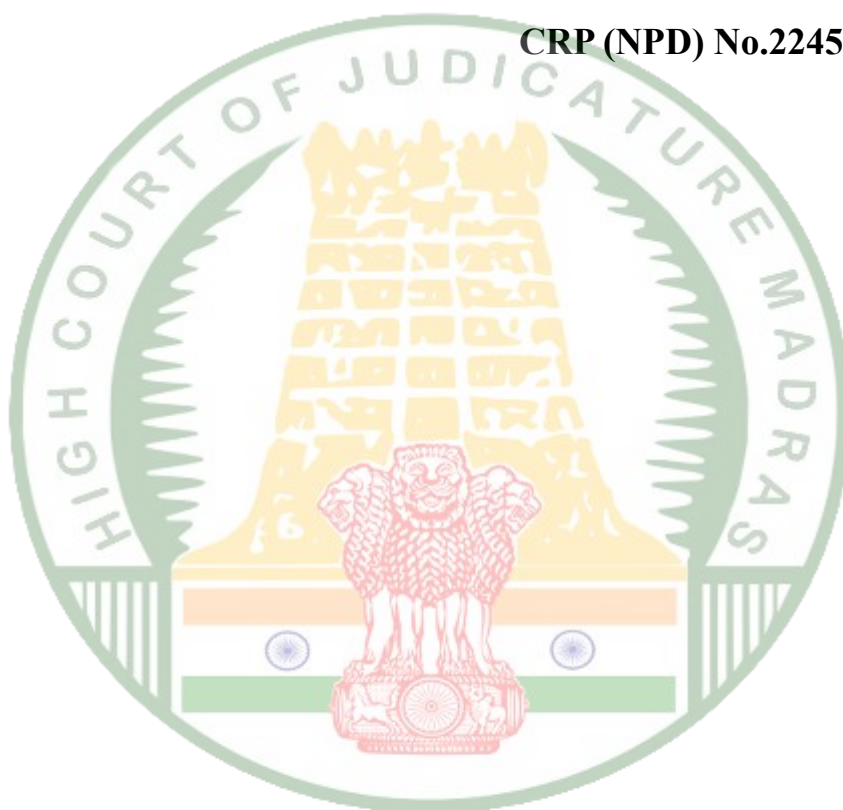
1. The Family Judge, Salem.
2. The Section Officer,
V.R. Section, High Court of Madras.



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G.K.ILANTHIRAIYANJ.,

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