

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(NPD)No.966 of 2021
and
CMP.No.7790 of 2021

F.Faruk John

... Petitioner

Vs.

1.K.Padmavathi

2.C.Banumathi

3.Chinnathayammal

4.Indhiragandhi

5.Shanthi

6.Kamala

7.Sakthivel Murugan

... Respondents

V.Sankar(deceased)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the returned endorsement dated 05.04.2021, made in REA.SR.No.550 of 2021 in REP.No.45 of 2011 in O.S.No.52 of 2005, on the file of the III Additional District Court, Salem.

For Petitioner : Mr.R.Neelakandan

For Respondents : No appearance

ORDER

(This case has been heard through video conference)

There was an earlier Civil Revision Petition in CRP(PD)No.1979 of 2019, which had been filed by one V.Sankar, seeking direction to the III Additional District Court at Salem to number the REA (SR) No.1469 of 2019 in REP No.45 of 2011 in O.S.No.52 of 2005.

2.That Civil Revision Petition came up for consideration before the learned Single Judge of this Court vide order dated 14.09.2020 and observing that the relief sought was to recognize and permit the revision petitioner to be in possession as a tenant, the Civil Revision Petition was dismissed.

3.It is the contention of the learned counsel for the petitioner that after the dismissal of the said Civil Revision Petition on 14.09.2020, the Judgment debtor / Mr.V.Sankar unfortunately expired on 04.11.2020 this has given rise to the present Revision Petitioner to claim further rights.

4.I hold that the Revision Petitioner herein is bound by the decree. He claims to be a partner of the deceased V.Sankar. He cannot claim a better right

than the deceased V.Sankar. The said V.Sankar had been a party and had exercised all his rights as a party defendant having been impleading as 6th defendant in the suit. The Revision Petitioner herein had not taken any steps to assert his claim as a partner. It is very unfortunate that he takes advantage of the death of the said partner and claims rights. Such conduct cannot be accepted even otherwise, any decree passed as against the tenant / one partner would also be binding on all the partners of the firm against which the decree has been passed. The petitioner herein is bound by the decree.

4.I find no reason to interfere with the order passed. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed. No order as to Cost.

23.04.2021

Index:Yes/No
Internet:Yes/No
ssi

To

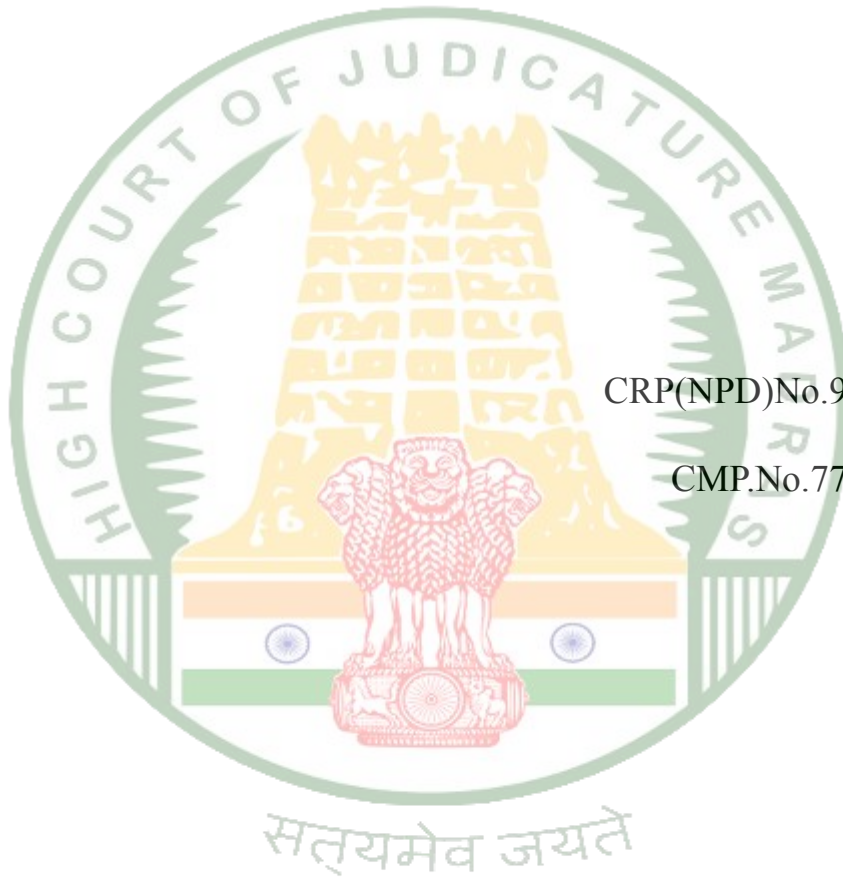
The III Additional District Court, Salem.

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C.V.KARTHIKEYAN, J.,

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