

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.1605 of 2014

and

M.P.No.1 of 2014

Dakshinamurthy

...

Petitioner/Petitioner/

Judgement Debtor/ Defendant

Vs.

Rajee @ Krishnammal

...

Respondent/ Respondent /

Decree holder / Plaintiff

PRAYER : The Civil Revision Petition filed under Section 115 of the Civil Procedure code, against the fair and decreetal order dated 04.01.2014 in unnumbered E.A.Sr. No.690 of 2013 in E.P.No.146 of 2012 in O.S.No.8 of 2010 on the file of the learned Additional Sub Judge, Mayiladuthurai.

For Petitioner : No appearance

For Respondent : Mr.A.Muthukumar

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed against the fair and decreetal order dated 04.01.2014 in unnumbered E.A.Sr. No.690 of 2013 in E.P.No.146 of 2012 in O.S.No.8 of 2010 on the file of the learned Additional Sub Judge, Mayiladuthurai.

2. When the matter is taken up for hearing today, there is no representation for the petitioner.

3. The learned counsel for the respondent is present and he would submit that even while the RCOP was pending, the suit filed by the respondent/plaintiff in O.S.No.8/2010 was decreed. And in the First Appeal filed before the District Court, Nagapatinam in AS.No.15/2011, a Compromise Decree was passed, based on the undertaking given by the revision petitioner/defendant that he would vacate the premises within one year. Thereafter when the execution petition was filed for executing the decree, the defendant/revision petitioner did not vacate the premises within the said period of one year. Subsequently, execution proceedings were taken for executing the decree. At that point of time, the revision petitioner himself had filed a claim petition in unnumbered E.A.Sr. No.690 of 2013 in E.P.No.146 of 2012 and the same was dismissed by the Executing Court on 04.01.2014.

4. This Civil Revision Petition has been filed by the defendant challenging the said order. Having allowed the suit to be decreed on a compromise, the revision petitioner/defendant is not entitled to file a claim petition and claim another decree for the same subject matter. The Executing Court has rightly appreciated

the matter in issue and dismissed the claim petition as not maintainable. Learned counsel for the respondent further submitted that possession of the property was also taken on 25.03.2014 through Court and hence, nothing survives for further adjudication in this matter.

5. In view of the same, I do not find any error in the order of the Executing Court warranting interference. Accordingly, this Civil Revision Petition is dismissed. No costs. Connected Miscellaneous Petition if any, are also closed.

15.04.2021

Speaking/Non-speaking
Index : Yes/No
Internet : Yes/No

jrs

To

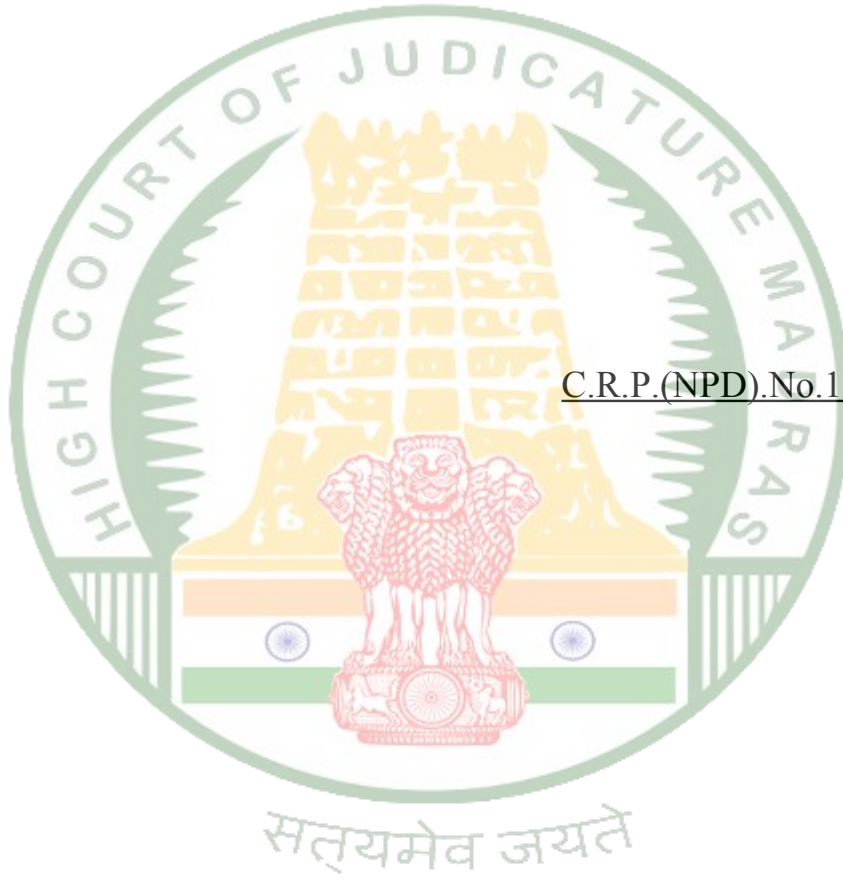
1.The Additional Sub Judge, Mayiladuthurai.

2.The Section Officer,
V.R.Section,
High Court, Madras.

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R.N.MANJULA, J.

jrs



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