

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.12.2021
PRONOUNCED ON : 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.2103 of 2020
and
CMP.No.13272 of 2020

Mohamed Haja ... Petitioner/Third Party
.. Vs ..

- 1.Ariya Vysya Samajam
Represented by its president Balaramasubramaniam,
S/o.Krishnamoorthy Chetiyar,
West Car Street, Chidambaram. Respondent/Decree Holder
- 2.Sukkurnnisa
3.Mohamed Moosa
4.Jabaruthunnisa
5.Malikannisa
6.Nabeesa Begam
7.Naseema Begam
...Respondents/Judgment debtor

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Principal District Munsif Court, at Chidambaram, Cuddalore District to taken up on file of the unnumbered E.A.S.R.No. 1325 of 2020 in E.A.No.275 of 2018 in E.P.No.94 of 2017 in O.S.No. 221 of 2010, which was returned as not maintainable and to dispose of on merit.

For Petitioner : Mr.R.Chakkaravarthy

ORDER

(The case has been heard through video conference)

This Civil Revision Petition is filed for a direction to the Principal District Munsif Court, Chidambaram, Cuddalore District, to number the EA.SR.No.1325 of 2020 in E.A.No.275 of 2018 in E.P.No.94 of 2017 in O.S.No. 221 of 2010, which was returned as not maintainable.

2.The brief facts of the case are as under:

(a) The first respondent/Ariya Vysya Samajam has filed a suit in O.S.No.221 of 2010, on the file of the Principal District Munsif Court, Chidambaram, Cuddalore District, for eviction against the tenant viz., Mohamed Yagaya.

(b)It is an admitted case that the first respondent herein leased out the suit property to the said Mohamed Yagaya on a monthly rent of Rs.3,000/-. In the said suit viz., O.S.No.221 of 2010, written statement was filed by the defendant, wherein it was stated that from the date of the tenancy, Mohamed Yagaya had been in possession and enjoyment of the suit property as a tenant by paying rent during the pendency of the suit also. After the

enquiry, the suit in O.S.No.221 of 2010 was decreed on 18.11.2016 by granting two months time for handing over the vacant possession.

(c)After the decree passed in O.S.No.221 of 2010, an Execution Petition was filed in E.P.No.94 of 2017 for execution and for delivery of possession of the suit property. During the pendency of the execution proceedings, the tenant/Mohamed Yagaya died and legal representatives were brought on record. Whiles, the present petitioner appears to have been field a suit in O.S.No.105 of 2018 before the Principal District Munsif, Chidambaram, for a bare injunction restraining the respondents herein from interfering with possession of the suit property except with due process of law. In the execution proceedings, the very same petitioner has filed an appeal in E.A.No.275 of 2018, under Oder 21 Rule 97 of CPC, on the ground that the decree obtained in O.S.No.221 of 2010 is not binding upon him, not enforceable in law and to declare the decree is not binding upon him.

(d)During the pendency of the said E.A.No.275 of 2018, the very same petitioner has filed another application in E.A.No.175 of

2019, for stay of the execution proceedings pending disposal of the suit and the said application has been dismissed by the Principal District Munsif Court, Chidambaram, by an order dated 03.03.2020. Thereafter, the present E.A.SR.No.1325 of 2020 has been filed with prayer for a joint trial of the EA.No. 275 of 2018 along with O.S.No.105 of 2018 and the same is returned as not maintainable. Hence, CRP.

3.Heard the learned counsel for the petitioner and perused the materials placed on record.

4.On considering the scope of the enquiry in E.A.No.275 of 2018, which is filed under Order 21 Rule 97 of CPC, which has to be determined like a suit as to the prayer that whether the decree obtained in the suit in O.S.No.221 of 2010 is binding upon the petitioner or not is no way connected with the alleged possession which is the main contention of the petitioner in O.S.No.105 of 2018.

5.Hence, taking into consideration the respective plea raised by the petitioner in O.S.No.105 of 2018 and E.A.No.275 of 2018,

this Court finds that the petition itself is not maintainable and the order passed by the Principal District Munsif, Chidambaram, in returning the petition cannot be termed as erroneous.

6.In this view of the matter, this Civil Revision Petition stands dismissed and the order passed by the Principal District Munsif Court, Chidambaram, Cuddalore District in EA.SR.No.1325 of 2020 in E.A.No.275 of 2018 in E.P.No.94 of 2017 in O.S.No. 221 of 2010 is hereby confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

.02.2021

Index : Yes
Internet :
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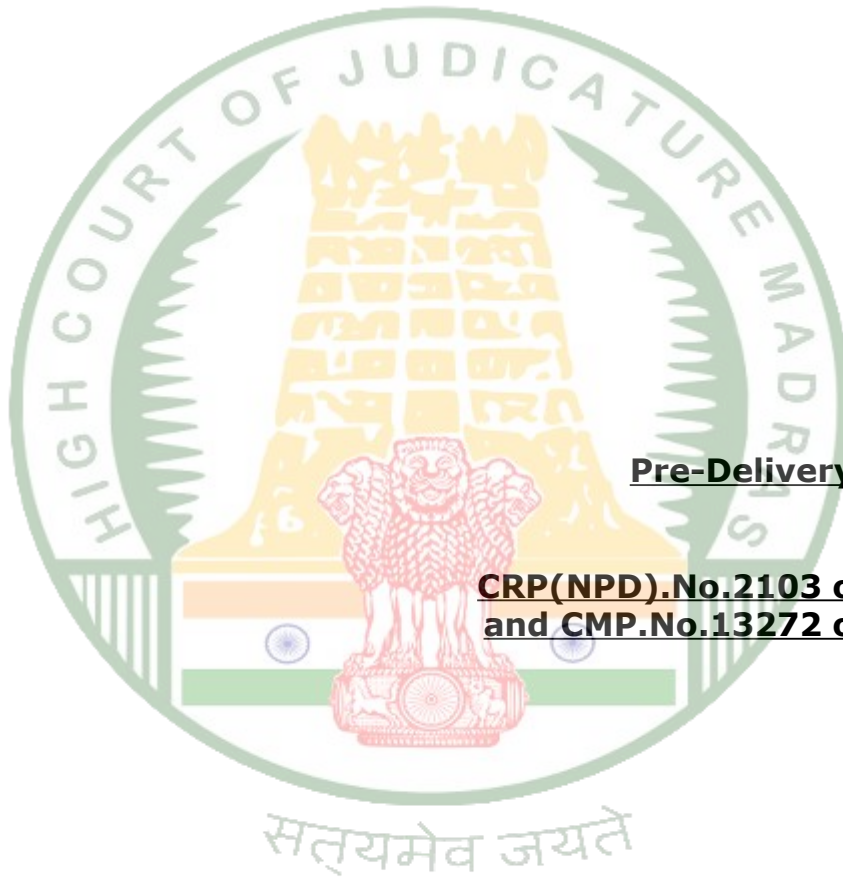
To

The Principal District Munsif Court,
Chidambaram, Cuddalore District.

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RMT.TEEKAA RAMAN. J.
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Pre-Delivery Order
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