

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

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

C.R.P.(NPD).Nos.1992 & 1993 of 2017
and
CMP.Nos.9606 & 11370 of 2017

C.R.P.(NPD).No.1992 of 2017

1.Kalaivanan

2.Devendaran

3.R.Palani

... Petitioners/Defendants 3 to 5

Vs.

M.Manoharan

... Respondent/Plaintiff

PRAYER : The Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the order and decretal order dated 10.04.2017 passed in EA.No.234 of 2016 in EP.No.207 of 2008 in O.S.No.426 of 1999 on the file of the Principal District Munsif, Chidambaram.

C.R.P.(NPD).No.1993 of 2017

R.Palani

... Petitioner/Defendant-3

Vs.

M.Manoharan

... Respondent/Plaintiff

PRAYER : The Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the order and decretal order dated 10.04.2017 passed in EA.No.235 of 2016 in EP.No.207 of 2008 in O.S.No.426 of 1999 on the file of the Principal District Munsif, Chidambaram.

In Both CRPs.

For Petitioners : Mr.Thiruneelakandan

For Respondent : No appearance

COMMON ORDER

(Heard through video conferencing)

These Civil Revision Petitions have been filed by the petitioners to challenge the orders of the Executing Court (Principle Munsif Court, Chidambaram) dated 10.04.2017 passed in E.A.Nos.234 & 235 of 2016 respectively, in E.P.No.207/2008 in O.S.No.426/1999.

2. These Civil Revision Petitioners are the defendants 3 to 5 in the suit. The Execution Petition has been filed to execute the decree passed in the suit. These petitioners remained absent in the Execution Proceedings and hence they were set an exparte. Subsequent to that an order for arrest also passed against these petitioners on 10.04.2017. Hence the petitioners have filed an application in E.A.No.234/2016 to recall the arrest warrant and also to set aside the exparte order.

3. And the Revision Petitioner in C.R.P.1993/2017 is the 5th Judgment Debtor/ 5th defendant. He has filed a petition before the Executing Court in E.A.No. 235/2016 to set aside the exparte order passed in the Execution Proceedings on 03.08.2016. The learned Executing judge heard both E.A.No.234/2017 and 235/2017 together and dismissed the same. Aggrieved over that the said orders of dismissal this Revision Petitioners have filed these Revision Petitions.

4. Now the learned counsel for the petitioners submitted that the petitioners have absolutely no objection to execute the decree and they are ready to file an affidavit to that effect before the Execution Court. If the petitioners are not going to obstruct the Execution Proceedings and they are ready to abide by the decree, there is no need to pass orders of arrest against them. Since the petitioners are ready to obey the decree, they may not have any counter in the Execution Proceedings.

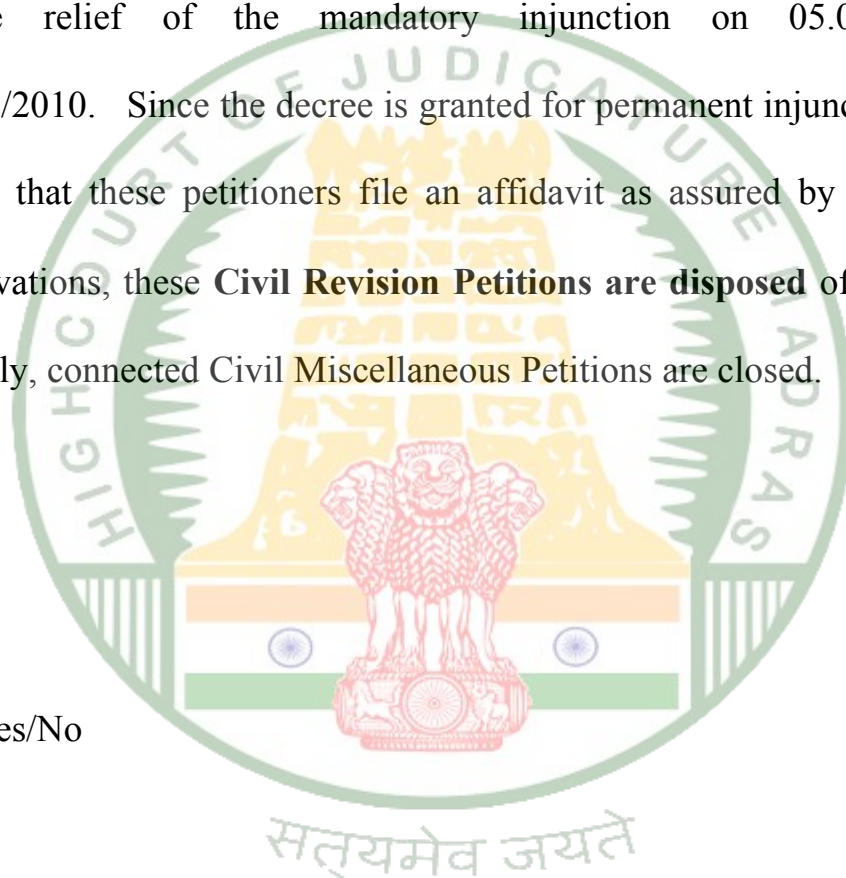
5. In view of the same, I prefer to set aside the order of arrest passed in E.A.Nos.234/2016 and 235/2016 on the condition that the petitioners should

execute an affidavit stating that they have no objection to execute the decree and that they will not cause any obstructions during the process of execution.

6. It is further submitted that the decree has been already executed with regard the relief of the mandatory injunction on 05.07.2010 in E.A.No.172/2010. Since the decree is granted for permanent injunction also, it is desirable that these petitioners file an affidavit as assured by them. With these observations, these **Civil Revision Petitions are disposed** off. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

28.07.2021

Speaking
Index : Yes
Internet : Yes/No
Jrs



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To

1.The Principal District Munsif,
Chidambaram.

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



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R.N.MANJULA,J.

jrs



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