

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD).No.2549 of 2017
and C.M.P.Nos.12099 & 12100 of 2017

1. Dhanam
2. Sharmila

... Petitioners

Vs.

1. Padaleeswarar Dhevasthanam,
By Executive Officer,
Having office at
Thirupapuliyur,
Cuddalore Taluk.

2. Dhanam Ammal
3. S.R.Subramanian
4. Dhandapani
5. Jeyakumar

(Respondents 2 to 5
are given up)

... Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 22.02.2017 in E.P.No.58 of 2000 in O.S.No.01 of 1983 on the file of the learned Principal District Munsif, Cuddalore.

For Petitioners : Mr.P.Suresh Babu
For Respondents
For R1 : Mr.K.Chandrasekaran
R2 to R5 : Given up

ORDER

This Civil Revision Petition is directed as against the order dated 22.02.2017, passed by the learned Principal District Munsif, Cuddalore, in E.P.No.58 of 2000 in O.S.No.01 of 1983, thereby ordering delivery of possession.

2. The first respondent is the plaintiff and the petitioners and others are the defendants. The first respondent filed suit in O.S.No.1 of 1983 for delivery of possession and the same was decreed on 30.07.1984. Aggrieved by the same the fourth respondent herein, filed appeal suit in A.S.No.184 of 1984 and the same was dismissed on 10.02.1986. Thereafter, the first respondent filed execution petition in E.P.No.58 of 2000 before the Execution Court and the deliver was ordered. As against the order of delivery, the present Civil Revision Petition has been filed.

3. The only ground raised in the present Civil Revision Petition is that the decree was granted in favour of the first respondent in respect of the suit property which was marked as ABCDEF in the plan annexed along with the plaint. Whereas the execution petition was filed for the entire portion of ABCDEFG.

4. On perusal of the decree revealed that the suit was filed for recovery of possession in respect of the suit property which is marked as ABCDEFG from the petitioners herein. It is described as Ward No.5, Block No.45, T.S.No.1752 ad measuring 31624 Sq.ft., as marked in the plain as ABCDEFG. Accordingly, the first respondent filed execution petition after dismissal of the appeal suit. Originally the suit was filed in the year 1983. The suit was decreed by the judgment and decree dated 30.07.1984. Even till today, the first respondent did not able to recover the property from the petitioners for one and other reasons.

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5. Further, the petitioners failed to raise those grounds before the trial Court as well as the first appellate Court. After the period of several

years, this ground has been raised and therefore, the Execution Court rightly rejected the contention and ordered delivery of possession. This Court finds no illegality or infirmity in the order passed by the Court below.

6. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

31.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

1. The Principal District Munsif,
Cuddalore.
2. The Executive Officer
Padaleeswarar Dhevasthanam,
Thirupapuliur,
Cuddalore Taluk.
3. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

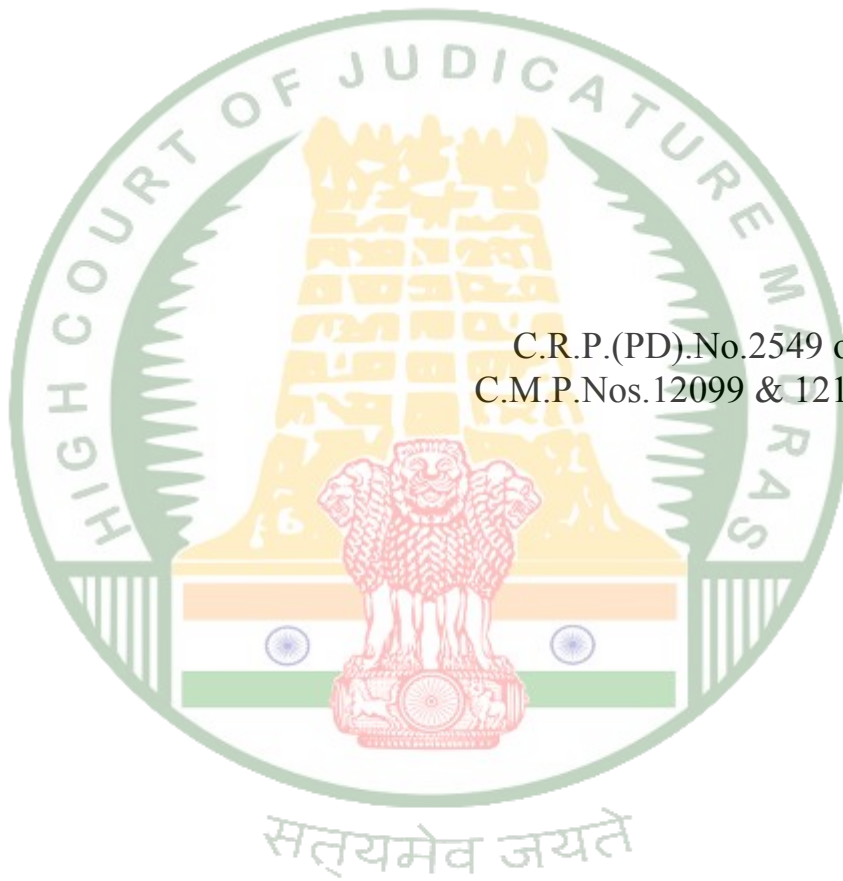


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G.K.ILANTHIRAIYAN, J.

rts



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