

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

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

C.R.P.(PD)No.3325 of 2018

Ganapathi Gounder ... Petitioner

Vs.

1. Chandra
2. Pounammal
3. Valli
4. Jeevaraj
5. M.Arumugham ... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 28.04.2017 passed in E.A.No.157 of 2016 in E.P.No.48 of 2013 in O.S.No.162 of 1989 on the file of the Additional District Munsiff, Tirupattur, Vellore District.

For Petitioner : Mr.K.Mohanamurali

For Respondents : No appearance

ORDER

This Civil Revision Petition is directed as against fair and decreetal order dated 28.04.2017 passed by the learned Additional District Munsiff, Tirupattur, Vellore District in E.A.No.157 of 2016 in E.P.No.48 of 2013 in O.S.No.162 of 1989, thereby staying further proceedings of EP.

2. The petitioner is the plaintiff and the respondents 1 to 4 are third parties and the fifth respondent is the second defendant. The petitioner filed suit in O.S.162 of 1989 for partition and it was decreed. On the strength of the decree, the petitioner filed execution petition in E.P.No.48 of 2013 for separate possession. When the execution petition was pending, the respondents 1 to 4 filed petition in the execution proceedings in E.A.No.157 of 2016 to stay all the proceedings.

3. The case of the respondents 1 to 4 herein is that they are the sisters of the petitioner herein and the petitioner suppressed the true facts, filed the suit for partition and obtained decree. In fact, the respondents 1 to 4 had filed suit in O.S.No.56 of 2011 for partition on the file of the

Subordinate Court, Tirupattur. The suit property is a joint family property and all of them are jointly in possession and enjoyment of the suit property. Therefore, till the disposal of the suit filed by them, the execution proceedings should be stayed. Considering the facts, the Court below stayed all the proceedings and terminated the main execution petition itself. Aggrieved by the same, the petitioner filed this present Civil Revision Petition.

4. The learned counsel appearing for the petitioner would submit that now the suit filed by the respondents 1 to 4 herein, in O.S.No.56 of 2011 was dismissed by the judgment and decree dated 14.02.2018. He further submitted that at least the Court below may keep the matter pending till the disposal of the suit filed by the respondents 1 to 4. Without doing so, the execution Court dismissed the main execution petition itself. Hence, he prayed to allow this petition.

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5. On a perusal of the impugned order revealed that the execution Court allowed the stay petition only for the reason that the respondents 1 to

4 are the joint owners of the suit property and they also filed suit in O.S.No.56 of 2011. In view of the order dated 14.02.2018 passed in O.S.No.56 of 2011, thereby dismissing the suit, the order passed by the execution Court is illegal and liable to be set aside.

6. Accordingly, the order dated 28.04.2017 passed by the learned Additional District Munsiff, Tirupattur, Vellore District in E.A.No.157 of 2016 in E.P.No.48 of 2013 in O.S.No.162 of 1989 is hereby set aside and the execution Court is directed to dispose the execution petition in E.P.No.48 of 2013, within the period of three months from the date of receipt of a copy of this Order.

7. With the above directions, this Civil Revision Petition is allowed. There shall be no order as to cost.

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

To

1. The Additional District Munsiff,
Tirupattur, Vellore District
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

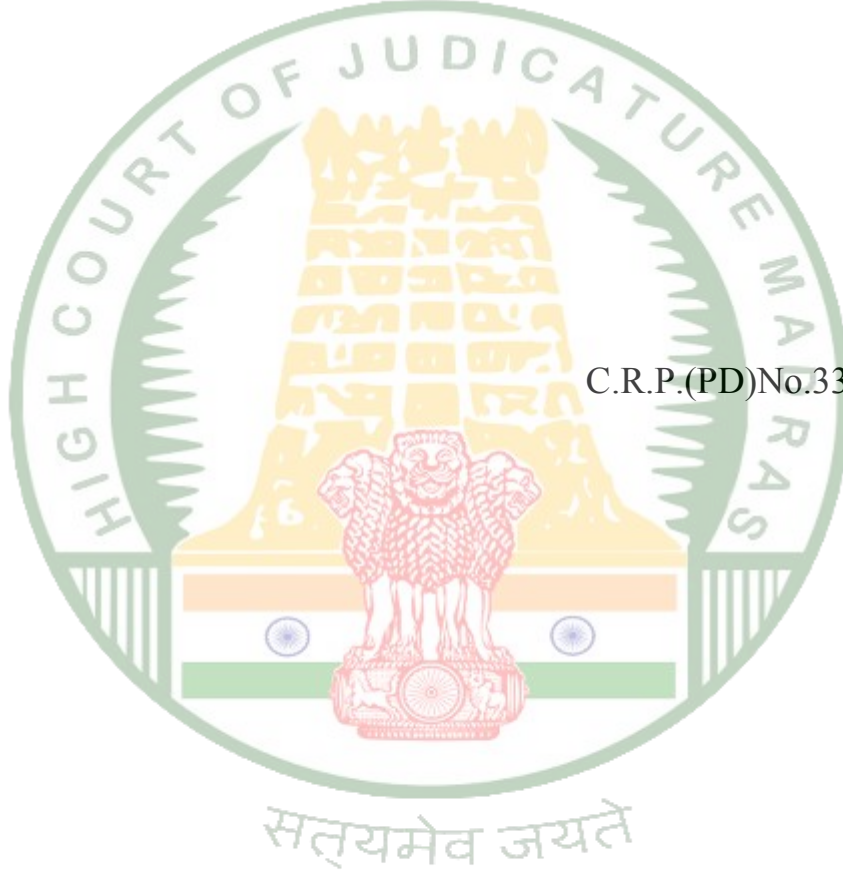


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G.K.ILANTHIRAIYAN, J.

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