

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

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

C.R.P.NPD.Nos.3081 & 3082 of 2018

and

C.M.P.Nos.17798 & 17803 of 2018

C.R.P.NPD.No.3081 of 2018

Devakani

... Petitioner

Vs.

1.Kalaimagal Sabha,
Rep.by its Joint Receiver,
No.48, North Usman Road,
T.Nagar, Chennai – 600 017.

2.Santhanam

3.Andal

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 06.07.2018 passed in E.A.No.139 of 2017 in E.A.No.14 of 2017 in E.A.No.92 of 2010 in E.P.No.14 of 2004 in O.S.No.124 of 2001 on the file of the learned Subordinate Judge, Maduranthakam and allow the civil revision petition.

For Petitioner

: Mr.Raghavan for
Mr.M.Raja

For Respondents

: Mr.C.V.Vijayakumar (for R-1)
Mr.J.Arun Prasad
(for R-2 and R-3)

C.R.P.NPD.No.3082 of 2018

Devakani

... Petitioner

Vs.

1.Kalaimagal Sabha,
Rep.by its Joint Receiver,
No.48, North Usman Road,
T.Nagar, Chennai – 600 017.

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... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 06.07.2018 passed in E.A.No.138 of 2017 in E.A.No.13 of 2017 in E.A.No.93 of 2010 in E.P.No.14 of 2004 in O.S.No.124 of 2001 on the file of the learned Subordinate Judge, Maduranthakam and allow the civil revision petition.

For Petitioner : Mr.Raghavan for
Mr.M.Raja

For Respondents : Mr.C.V.Vijayakumar (for R-1)
Mr.J.Arun Prasad
(for R-2 and R-3)

COMMON ORDER

These Civil Revision Petitions are directed as against the fair and decretal orders passed in E.A.Nos.138 & 139 of 2017 in E.A.Nos.13 & 14

of 2017 in E.A.Nos.92 & 93 of 2010 in E.P.No.14 of 2004 in O.S.No.124 of 2001 dated 06.07.2018 on the file of the learned Subordinate Judge, Maduranthakam, thereby dismissing the petitions for restoration.

2. The petitioner is the third party in the execution petition filed by the first respondent herein. The petitioner purchased the property by the sale deed dated 23.02.2005 from the second respondent herein. The second and third respondents are the judgment debtors. Therefore, the petitioner filed a claim petition before the Execution Court for releasing the said property from attachment order dated 28.04.2004. Both the claim petitions were dismissed for default. To restore both the claim petitions, the petitioner filed E.A.Nos. 13 and 14 of 2017. When both the applications were posted for enquiry on 19.07.2017, again the petitioner failed to appear before the Trial Court and due to viral fever. Therefore, both the petitions were again dismissed for default due to his non appearance. Therefore, the petitioner filed the present petitions to restore the restoration petitions. Both the petitions were dismissed and aggrieved by the same, the petitioner filed the present Civil Revision Petitions.

3. The learned counsel for the petitioner submitted that while pending

the present Civil Revision Petitions, the petitioner has settled the amount to the first respondent. The petitioner also filed a memo before the Execution Court. Even then, the Execution Petition is not yet closed since their claim petitions were dismissed for default.

4. Considering the above submission, these Civil Revision Petitions are allowed and the orders passed in E.A.Nos.138 & 139 of 2017 in E.A.Nos.13 & 14 of 2017 in E.A.Nos.92 & 93 of 2010 in E.P.No.14 of 2004 in O.S.No.124 of 2001 dated 06.07.2018 are hereby set aside. The Execution Court is directed to restore the claim petitions and pass orders as per the joint memo filed by the petitioner as well as the first respondent herein on merits and in accordance with law within a period of four weeks. Consequently, the connected Miscellaneous Petitions are closed. No costs.

सत्यमेव जयते

30.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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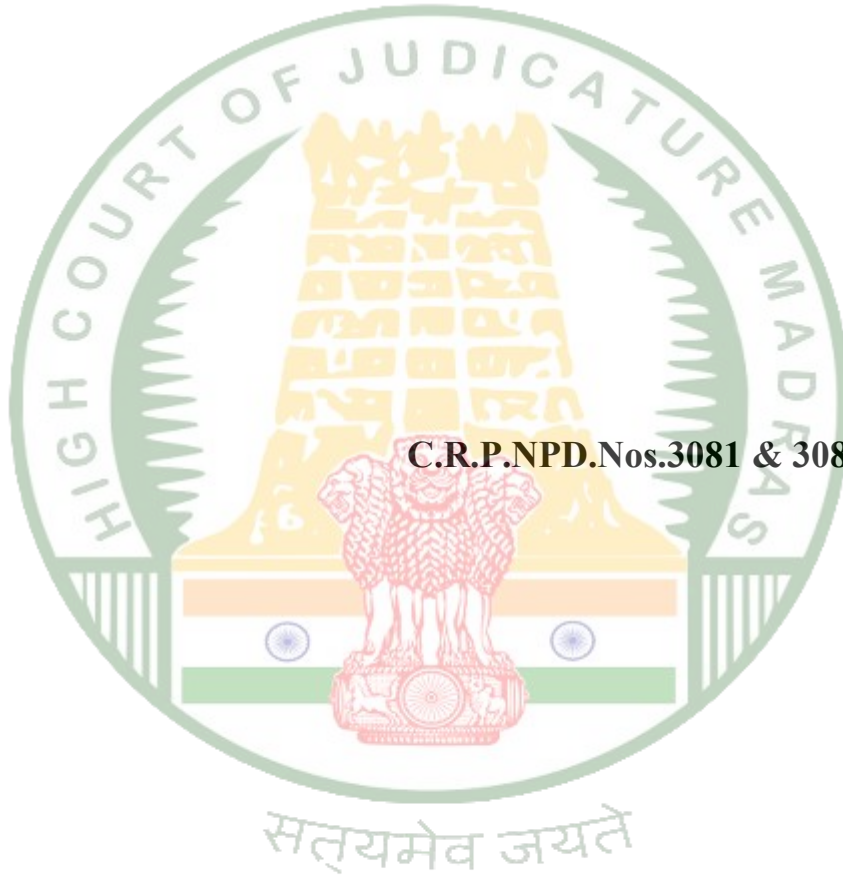
To

1. The Subordinate Judge, Maduranthakam.

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

G.K.ILANTHIRAIYAN,J.

Kv



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