

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD). No.1455 of 2017
& C.M.P.No.6758 of 2017

1. Shankar
2. Diwakar ... Petitioners/Plaintiff

Vs.

1. Uma
2. R.Indira
3. J.Siva @ Sivanath
4. J.Neelakandan
5. Rajesh Kannan
6. Ponni
7. Latha
8. Sundarajan @ Chellam
9. The Tahsildar
Vandavasi
10.The Sub Registrar,
Thellur. ... Respondents/Defendants

Prayer: Petition has been filed under Article 227 of Constitution of India against the fair and decreetal order dated 08.02.2017 in unnumbered I.A. of 2017 in O.S.No.73 of 2013 on the file of the Subordinate Judge, Cheyyar.

For Petitioners : M/s. Poornima

ORDER

The petitioners are the plaintiffs and the respondents are the defendants in the suit in O.S.No.73 of 2013.

2. This petition has been filed against the un-numbered I.A. for restoring the suit which was dismissed for default on 14.03.2016 against the D2, D7 and D8. The suit in O.S.No.73 of 2013 was filed by the petitioners/Plaintiffs on the file of the Sub Court, Cheyyar, seeking the relief of partition and the said suit was dismissed for default on 23.01.2017, as against the defendants 2, 7 and 8. The petitioners filed Interlocutory Application, seeking to restore the order dated 23.01.2017 passed by the trial Court.

3. According to the petitioner, private notice was ordered in respect of defendants D2, D7 and D8. However, since the bundle got mixed up with some other disposed bundle, private notice was not sent in time.

4. The learned Trial Judge, after considering the affidavit and the submission of the learned counsel for the petitioners, has rejected the unnumbered I.A. on the ground that the suit is pending from the year 2013 and in spite of number of opportunities being given to the petitioners, they failed to take steps to serve summons on the defendants 2, 7 and 8.

5. Aggrieved by the said order, the petitioners have come out with the present Civil Revision Petition.

6. Heard the learned counsel for the petitioners and perused the materials available on record.

7. According to the petitioners, steps were taken and the notices were sent to the defendants 2, 7 and 8 and it was returned with an endorsement as 'insufficient address'. In the suit for partition, all the parties are plaintiffs and it is not the intention of the petitioners is to prolong the proceedings.

8. Considering the fact that the suit is for partition, the suit which was dismissed as against D2, D7 and D8 for default, is restored to file and the learned Trial Judge is directed to number the application if it is re-presented by the petitioner, if it is otherwise in order and consider the same on merits and pass orders in accordance with law within a period of one week from the date of receipt of a copy of this order.

9. With the above direction, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Asst. Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

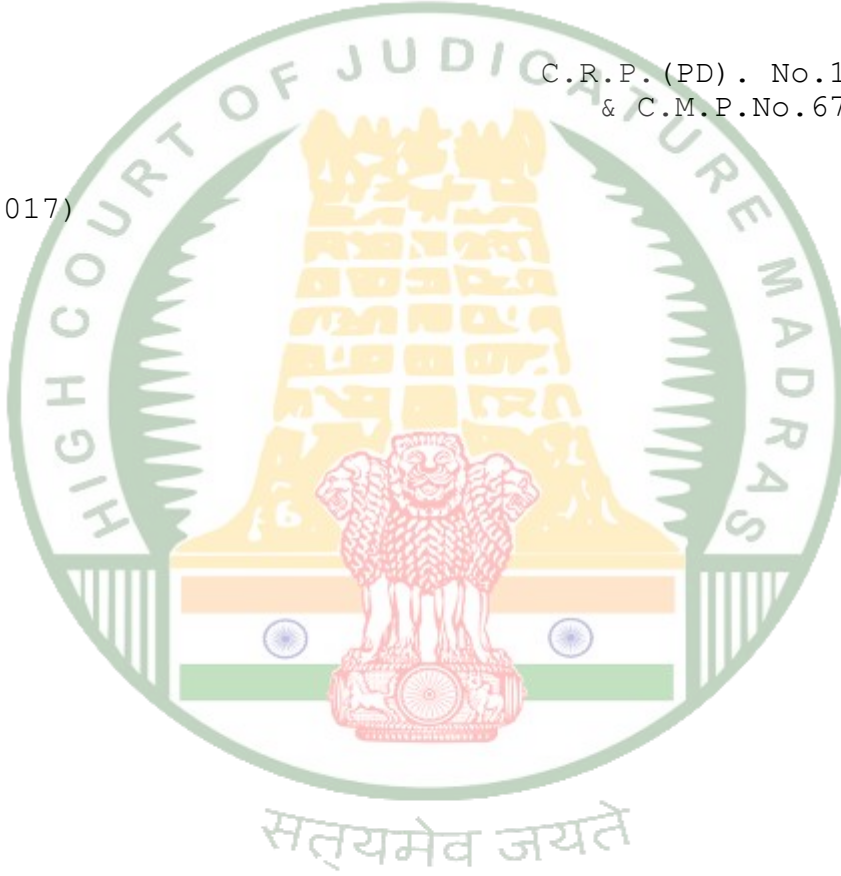
1.The Subordinate Judge,
Cheyyar.

2.The Sub Registrar,
Thellur.

+lcc to Mrs.R.Poornima, Advocate Sr. 23995

C.R.P. (PD) . No.1455 of 2017
& C.M.P.No.6758 of 2017

SR(CO)
VR(06/06/2017)



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