

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.132 & 133 of 2014
& M.P.No.1 of 2014

Veeraselvi

.. Petitioner
in both CRPs.

Vs.

Saroja

.. Respondent
in both CRPs.

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decretal order dated 06.08.2013 made in I.A.Nos.148 and 149 of 2013 in O.S.No.137 of 2001 on the file of the Court of District Munsif Cum Judicial Magistrate, Kattumannarkoil.

For Petitioner : Mr.A.Muthukumar

For Respondent : Mr.R.Balasubramanian

COMMON ORDER

The Civil Revision Petitions are filed against the fair and decretal order dated 06.08.2013 made in I.A.Nos.148 and 149 of 2013 in O.S.No.137 of 2001 on the file of the Court of District Munsif Cum Judicial Magistrate, Kattumannarkoil.

2. The petitioner is the third defendant and respondent is the first plaintiff in O.S.No.137 of 2001 on the file of the District Munsif Cum Judicial Magistrate Court, Kattumannarkoil. The respondent filed the said suit for declaration and injunction. The respondent also filed two other suits in O.S.Nos.130 of 2002 and 40 of 2006 against the petitioner and others. In all the suits, a joint trial was ordered and the evidence was let in in the present suit. The parties have let in evidence and closed their side. The petitioner's husband was examined as D.W.1 and he was also cross examined. The counsel for the petitioner and respondent were argued the suit and the suit was posted for reply arguments by the counsel for the respondent. At that stage, the petitioner filed I.A.No.148 of 2013 to reopen the case and I.A.No.149 of 2013 for permitting her to let in evidence.

3. According to the petitioner, during arguments, the learned counsel appearing for the respondent contended that non-examination of the petitioner is fatal to the case, as she is the sole defendant in O.S.No.130 of 2002 and the sale deed stands in her name. The husband of the petitioner was looking after the case and he has already let in evidence on her behalf also. In view of the said contention of the learned counsel appearing for the respondent, the suit may be re-opened and petitioner may be permitted to let in evidence. The petitioner is not going to depose any new facts and her evidence is only a formal evidence.

4. The respondent filed counter affidavit and opposed the said application.

5. The learned Judge, considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed both the applications by taking into consideration that when the petitioner's husband was cross-examined, a specific question was put to him for non-examination of the petitioner and after completion of the evidence of the petitioner's husband as D.W.1, other witnesses were examined on the side of the

petitioner and other defendants and an opportunity was given to the petitioner and other defendants to let in further evidence, but the petitioner did not let in evidence and closed their side. The learned Judge further held that the present applications are filed only to fill up the lacuna.

6. Against the said order of dismissal dated 06.08.2013 made in I.A.Nos.148 and 149 of 2013, the present Civil Revision Petitions are filed by the petitioner.

7. Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

8. From the order of the learned Judge, it is seen that the petitioner's husband was examined with regard to non-examination of the petitioner and even after examination of D.W.1 and even after completion of the evidence of D.W.1, the defendants have examined other witnesses, but they did not examine the petitioner as a witness. In the present applications, the petitioner stated that she is only a formal witness and she is not going to depose any new facts than that of her husband. The learned Judge considered

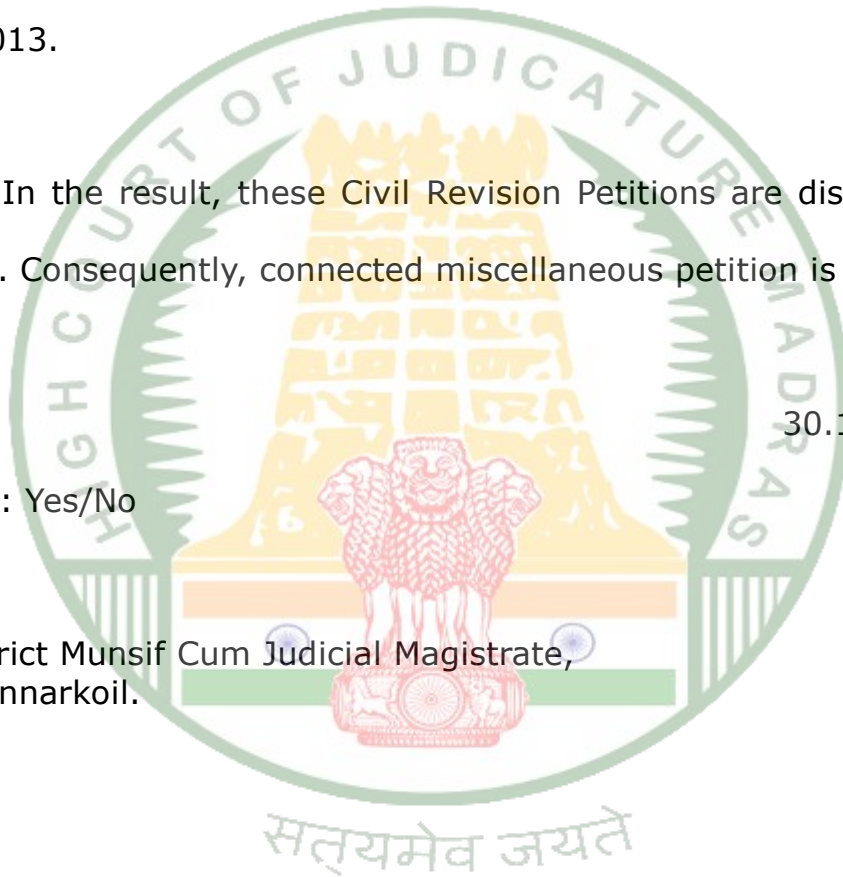
all the aspects in proper perspective and dismissed both the applications by giving cogent and valid reasons. In the circumstances, there is no irregularity or illegality warranting interference with the order passed by the learned Judge dated 06.08.2013.

9. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.10.2017

Index : Yes/No
dm/kj
To

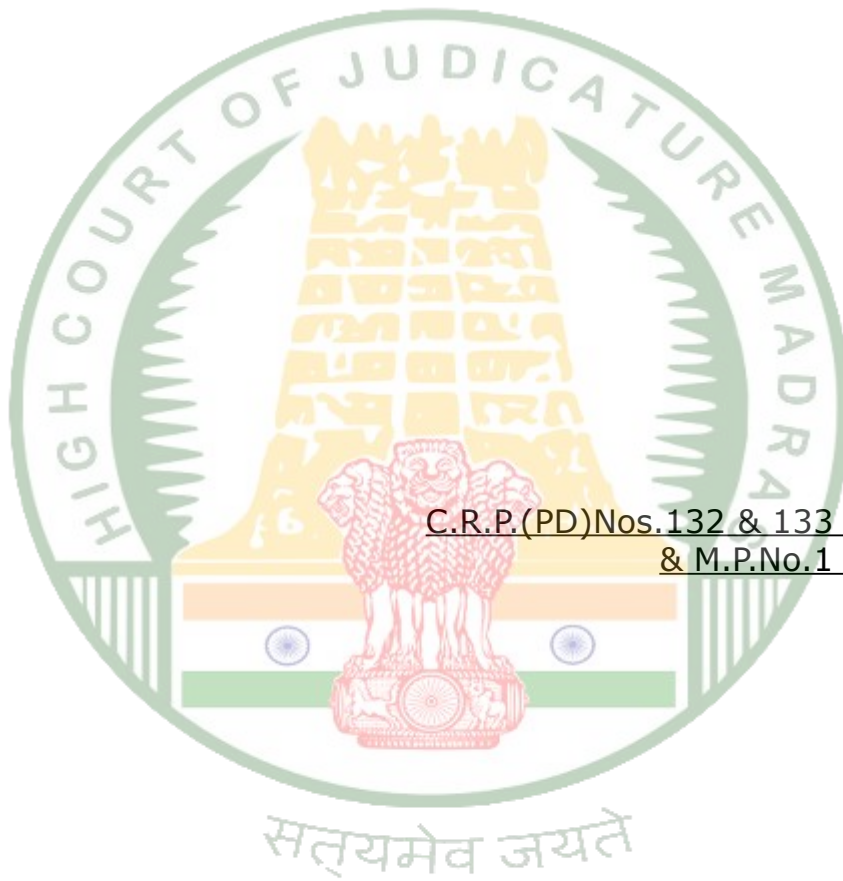
The District Munsif Cum Judicial Magistrate,
Kattumannarkoil.



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V.M.VELUMANI, J.

dm/kj



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