

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1407 of 2014
& M.P.No.1 of 2014

KP Madavan

.. Petitioner

Vs.

1.KP Anandan
 2.P.Vasuki (Deceased)
 3.K.Lily
 4.K.Nithyakalyani
 5.P.Anbumani
 6.P.Sampath

.. Respondents

(RR5 & 6 brought on record as
 LR's of the deceased 2nd respondent's
 viz., P.Vasuki, vide order of Court
 dated 08.12.2017 in M.P.No.1 of 2015)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 20.03.2014 in I.A.No.16280 of 2010 in O.S.No.7832 of 1984 on the file of the XIV Assistant Judge, City Civil Court, Chennai.

For Petitioner	: M/s.AL.Ganthimathi
For R1	: Mr.Ashok Viswanath
For R2	: Died
For R3 & R4	: Mr.A.Malath Devapriyan
For R5 & R6	: No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 20.03.2014 in I.A.No.16280 of 2010 in O.S.No.7832 of 1984 on the file of the XIV Assistant Judge, City Civil Court, Chennai.

2.Heard the learned counsel for the petitioner as well as the first respondent and respondents 3 and 4 and perused the materials available on record.

3.The petitioner is second defendant, first respondent is the plaintiff and respondents 2 to 4 are the defendants 3, 4 and 6 in O.S.No.7832 of 1984 on the file of the XIV Assistant Judge, City Civil Court, Chennai. The petitioner is challenging the order dated 20.03.2014 made in I.A.No.16280 of 2010, appointing Advocate Commissioner to ascertain total monthly rents generated from the suit property, to collect 1/5th share in rental income and deposit the same into Court every month. The said application was filed by the first respondent against the petitioner and respondents 2 to 4, along with other two applications in I.A.Nos.16279 and 16281 of 2010 for passing final decree, for appointment of Advocate Commissioner to

divide the suit property into five equal shares by metes and bounds and allot 1/5th share to the first respondent. All these applications were filed based on the preliminary decree passed in favour of the first respondent in A.S.No.479 of 1988, confirmed by this Court by the judgment and decree dated 10.12.2009 in S.A.No.662 of 1991 and order dated 11.05.2010 made in S.L.P (Civil) No.13396 of 2010. The petitioner filed counter affidavit and submitted that he is the absolute owner of the property. The Slum Clearance Board executed a sale deed in his favour on 24.12.2007.

4.The contention of the learned counsel for the petitioner is that, petitioner is absolute owner of the suit property and the Plots bearing Nos.77 & 78 were allotted to the petitioner by Slum Clearance Board and after payment of the entire instalments as per the lease cum sale agreement, the sale executor executed a sale deed on 24.12.2007 and registered the document Nos.1234 of 2008 and 1230 of 2008 respectively. The plot No.79 was allotted in the name of his wife M.Pushparani and lease cum sale agreement dated 01.04.1995 was executed in her name. Father of the petitioner and respondent is not owner of the suit property. These contentions are without merits. In the suit, the petitioner took a stand that suit

property is a Government Poromboke land and he has put up superstructure out of his own fund and he is the absolute owner of the suit property. These contentions were rejected in A.S.No.479 of 1988 and the same was confirmed by this Court in S.A.No.662 of 1991 and by the Hon'ble Apex Court in S.L.P (Civil) No.13396 of 2010. According to the petitioner, the Slum Clearance Board executed a sale deed in his favour on 24.12.2007 and lease cum sale agreement was executed in favour of his wife, M.Pushparani on 01.04.1995. These contentions were not raised before this Court in S.A.No.662 of 1991 and before Hon'ble Apex Court in the S.L.P (Civil) No.13396 of 2010. This Court dismissed the S.A.No.662 of 1991 by the judgment dated 10.12.2009 and Hon'ble Apex Court dismissed the S.L.P (Civil) No.13396 of 2010 on 11.05.2010. In view of the above facts, the contention of the petitioner now raised is untenable and unacceptable. The learned Judge has appreciated all the above facts and allowed the application by giving cogent and valid reasons. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 20.03.2014 made in I.A.No.16280 of 2010.

5. In the result, this Civil Revision Petition is dismissed. However, there is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

13.12.2017

Index: Yes/No
gsa

To

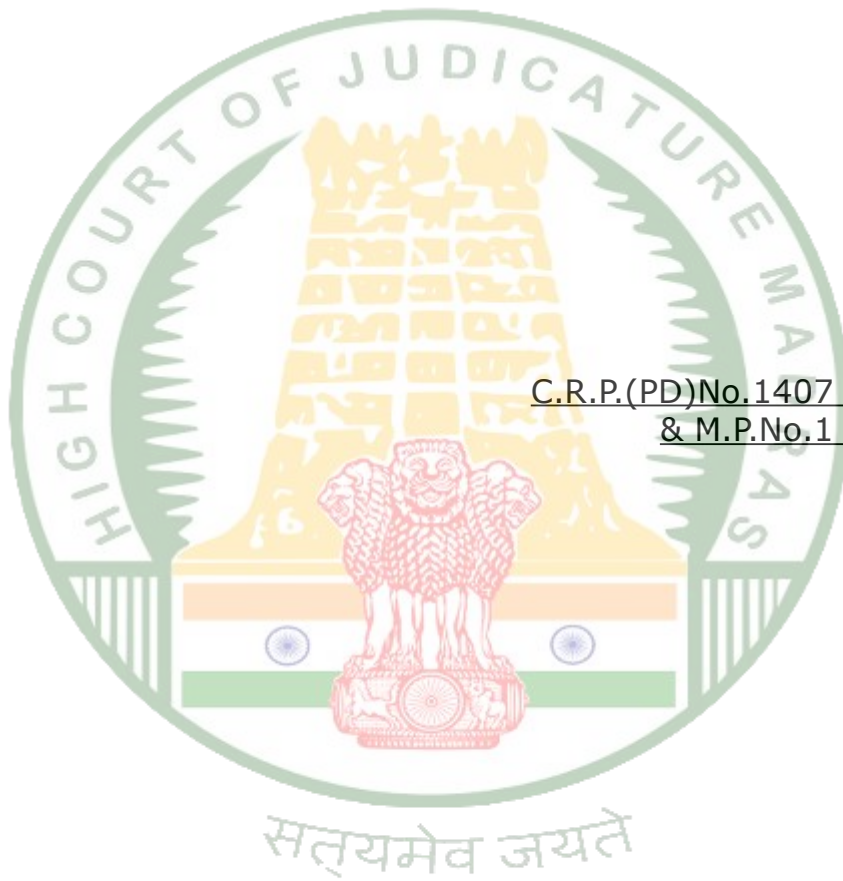
The XIV Assistant Judge,
City Civil Court, Chennai.



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V.M.VELUMANI,J.

gsa



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13.12.2017