

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.1505 OF 2014
AND M.P.NO.1 OF 2014

1.Sanju Anto
2.Anju Vijai

... Petitioners

Vs.

P.Senthamarai
Represented by her Power of Attorney Agent
T.S.Prabakaran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 21.01.2014 passed in I.A.No.335 of 2013 in O.S.No.504 of 2012 on the file of the Additional District Munsif, Poonamallee.

For Petitioners : Mr.V.Srinivasa Babu

For Respondent : No Appearance

ORDER

This Civil Revision Petition is filed against the order dated 21.01.2014, passed in I.A.No.335 of 2013 in O.S.No.504 of 2012, by the learned Additional District Munsif, Poonamallee, wherein the Trial Court has dismissed the petition filed to order preliminary enquiry and calling for the report before initiating any action under Section 340 Cr.P.C.

2. The case of the petitioners is that the respondent / plaintiff has filed a suit in O.S.No.504 of 2012, on the basis of a forged document viz., sale deed being document No.845/1990, dated 21.12.1990, marked as "Ex.R1". The certified copy of the sale deed was marked as Ex.R2. Whereas, the petitioner has obtained a certified copy from the Sub Registrar's Office for the same number (viz., document No.845/1990) and it was found to be a mortgage deed dated 15.06.1990, which was marked as Ex.P1. The letter addressed by the Joint Sub-Registrar, Saidapet, would reveal that document No.845 of 1990 was only a mortgage deed executed by one T.Ganesh. Therefore, the petitioners / defendants would seek for a direction in I.A.No.335/2013 in the above suit to enquire into the matter under Section 340 Cr.P.C, for the offenses under Sections 193 and

34 IPC. However, the Trial Court vide order dated 21.01.2014 has dismissed the petition on the ground that it can be determined only after trial.

3. The learned counsel appearing for the petitioners would rely on a judgment of the Hon'ble Supreme Court in **RAMRAMESHWARI DEVI AND OTHERS VS. NIRMALA DEVI AND OTHERS [2011 (8) SCC 249]** and contended that in order to curbe the delay, stringent action shall be taken. In this regard, para 52 of the said judgment is extracted hereunder:

"52. The main question which arises for our consideration is whether the prevailing delay in civil litigation can be curbed? In our considered opinion the existing system can be drastically changed or improved if the following steps are taken by the trial courts while dealing with the civil trials.

A. Pleadings are foundation of the claims of parties. Civil litigation is largely based on documents. It is the bounden duty and

obligation of the trial judge to carefully scrutinize, check and verify the pleadings and the documents filed by the parties. This must be done immediately after civil suits are filed.

B. The Court should resort to discovery and production of documents and interrogatories at the earliest according to the object of the Code. If this exercise is carefully carried out, it would focus the controversies involved in the case and help the court in arriving at truth of the matter and doing substantial justice.

C. Imposition of actual, realistic or proper costs and or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider

ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

D. The Court must adopt realistic and pragmatic approach in granting mesne profits. The Court must carefully keep in view the ground realities while granting mesne profits.

E. The courts should be extremely careful and cautious in granting ex-parte ad interim injunctions or stay orders. Ordinarily short notice should be issued to the defendants or respondents and only after hearing concerned parties appropriate orders should be passed.

F. Litigants who obtained ex-parte ad interim injunction on the strength of false pleadings and forged documents should be adequately punished. No one should be allowed to abuse the process of the court.

G. The principle of restitution be fully applied in a pragmatic manner in order to do real and substantial justice.

H. Every case emanates from a human or a commercial problem and the Court must make serious endeavour to resolve the problem within the framework of law and in accordance with the well settled principles of law and justice.

I. If in a given case, ex parte injunction is granted, then the said application for grant of injunction should be disposed of on merits, after hearing both sides as expeditiously as may be possible on a priority basis and undue adjournments should be avoided.

J. At the time of filing of the plaint, the trial court should prepare complete schedule and fix dates for all the stages of the suit, right from filing of the written statement till pronouncement of judgment and the courts

should strictly adhere to the said dates and the said time table as far as possible. If any interlocutory application is filed then the same be disposed of in between the said dates of hearings fixed in the said suit itself so that the date fixed for the main suit may not be disturbed."

4. When the matter was taken up for hearing on 19.06.2017, none appeared for the respondent and the matter was directed to be listed on 10.07.2017. Even today, there is no representation on behalf of the respondent.

5. In view of the judgment of the Hon'ble Supreme Court cited above, order dated 21.01.2014, passed in I.A.No.335 of 2013 in O.S.No.504 of 2012, by the learned Additional District Munsif, Poonamallee, is set aside and a direction is issued to the learned Additional District Munsif, Poonamallee, to frame preliminary issues in O.S.No.504 of 2012, as observed by the Hon'ble Supreme Court and decide the matter, on merits and in accordance with law, within a period of one month from the date of receipt of a copy of this order.

6. The Civil Revision Petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

18.07.2017

Index : Yes/No

Internet : Yes/No

Note : *Issue order copy on 21.07.2017*

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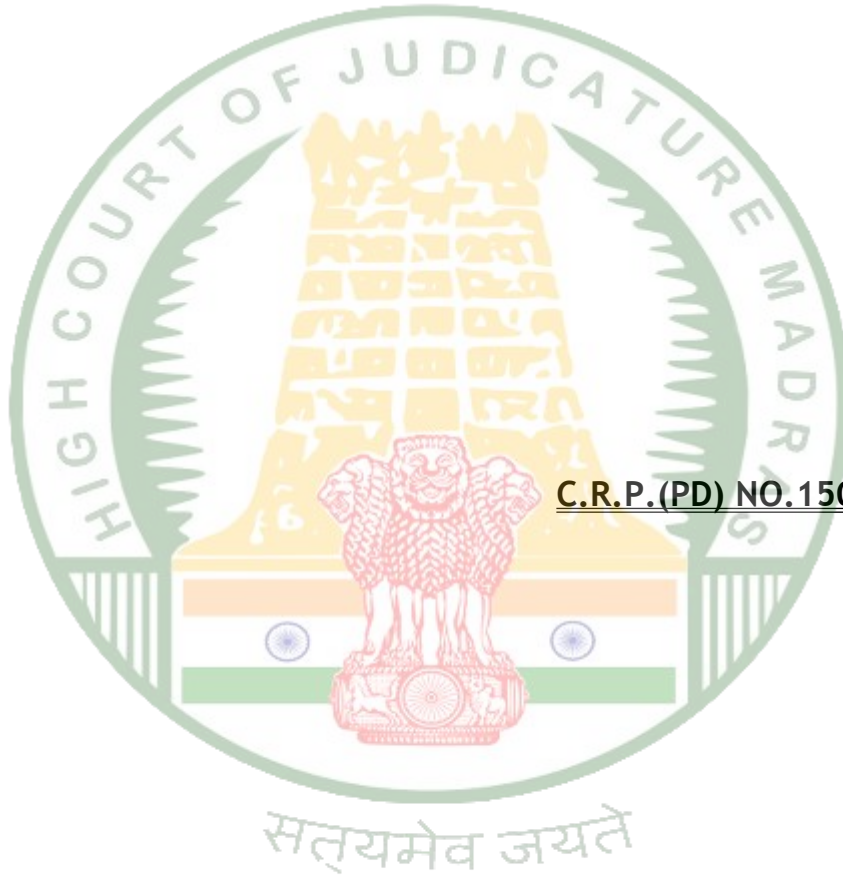
The Additional District Munsif
Poonamallee.



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M.GOVINDARAJ, J.

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