

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1896 of 2017
& C.M.P.No.9182 of 2017

1.Kathaye
2.Munian

.. Petitioners

Vs.

1.Ramanathan
2.Krishnan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.06.2016 made in I.A.No.876 of 2016 in O.S.No.350 of 2010 on the file of the Principal District Munsif Court, Kallakurichi.

For Petitioner : Mr.C.M.Ashokkumar

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 03.06.2016 made in I.A.No.876 of 2016 in O.S.No.350 of 2010 on the file of the Principal District Munsif Court, Kallakurichi.

2. The petitioners are defendants 1 and 2, first respondent is the plaintiff and second respondent is the third defendant in O.S.No.350 of 2010 on the file of the Principal District Munsif Court, Kallakurichi. The first respondent filed the suit for permanent injunction. The petitioners filed written statement on 20.01.2011 and 23.01.2012 respectively and are contesting the suit. First respondent filed I.A.No.876 of 2016 for permission to file documents on his behalf.

3. According to the first respondent, those documents were not available at the time of filing of the suit and only now the first respondent got the documents and therefore, sought permission of the Court under Order VII Rule 14 of C.P.C.

4. The petitioners filed counter affidavit opposing the said application and submitted that the first respondent has not mentioned these documents in the plaint and the documents cannot be filed and marked, when they were not mentioned in the plaint. They also contended that the first respondent failed to comply with the conditions mentioned in the Order VII Rules 14 and 18 of C.P.C.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and judgments relied on by the counsel for the parties, allowed the application filed by the first respondent.

6. Against the order dated 03.06.2016 made in I.A.No.876 of 2016, the present civil revision petition is filed by the petitioners/defendants 1 and 2.

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

8. The contention of the learned counsel for the petitioners that the first respondent did not mention the documents now sought to be marked is contrary to the facts. The learned Judge has considered the averments made in the plaint and took note of the fact that the first respondent has mentioned these documents in page Nos.1 and 2 of the plaint i.e., about the sale deed dated 11.10.2002 and payment of kist to the Government. The learned Judge taking note of the fact that the documents now sought to be filed and marked are the documents mentioned in the plaint, allowed the application. The learned Judge has held that the

judgments relied on by the learned counsel for the petitioners reported in **2010 (1) Andh L.D. 163 and Sudhir Kumar Pandey v. Bank of India (Patna High Court)**, are not applicable to the facts of the present case, as the facts of the case mentioned in those judgments are entirely different from the facts of the present case.

9. The learned Judge considering all the materials available on record allowed the application by giving cogent and valid reasons. In these circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 03.06.2016.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.06.2017

Index : Yes/No

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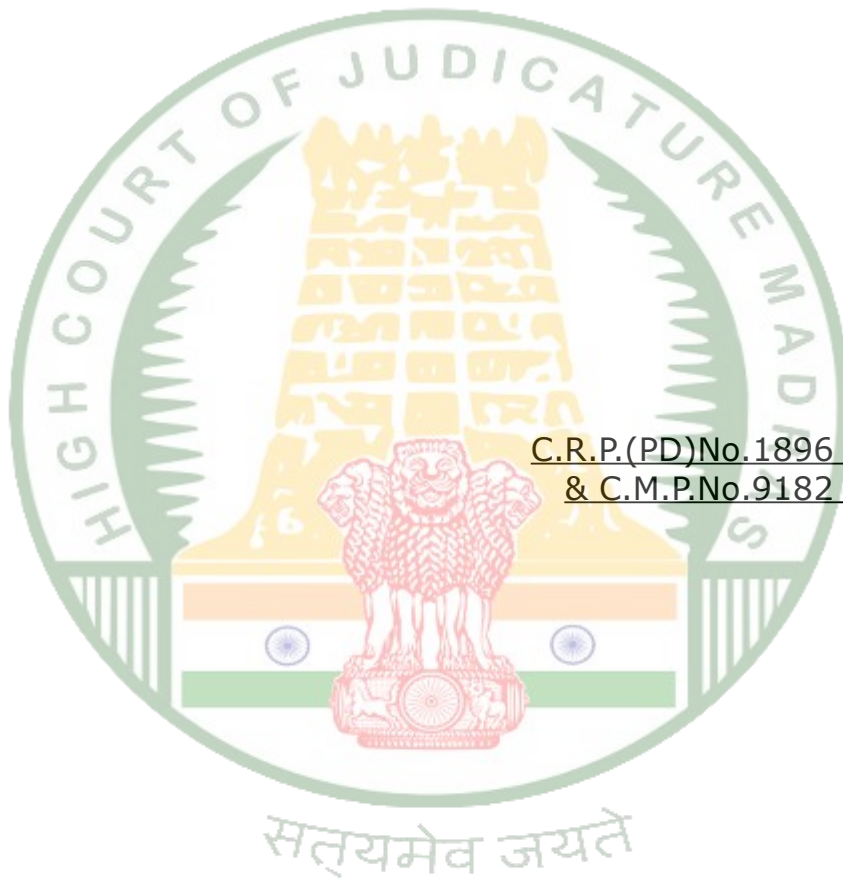
The Principal District Munsif Court,
Kallakurichi.



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V.M.VELUMANI, J.

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