

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) No.2105 OF 2017
AND CMP. NO.10031 OF 2017

Selvi

... Petitioner

Vs.

1. Sumathi
2. Easwari
3. Gomathi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, as against the fair and decreetal order dated 11.04.2017 made in I.A.No.1257 of 2015 in O.S.No.107 of 2011 on the file of the District Munsif Court, Kangayam.

For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.R.Kannan
for Mr.V.Rengunathan

ORDER

WEB COPY

The present Civil Revision Petition has been filed against the order dated 11.04.2017 made in I.A.No.1257 of 2015 in O.S.No.107 of 2011 on the file of the District Munsif Court, Kangayam, allowing the

petition to issue warrant to the attesting witnesses under Order XVI Rule 10 sub rule (2) & (3) of CPC.

2. The learned counsel appearing for the petitioner would submit that the suit is of the year 2011 and without resorting to the procedure under Section 69 of the Evidence Act, the respondents are trying to adopt the procedure under Order XVI Rule 10 of CPC and hence, the trial Court is wrong in allowing the petition.

3. Considering facts and circumstances of the case, and the case of the defendants/petitioners that they are in a position to prove the will, in the evidence of attesting witnesses is very much essential and the trial Court considering the same has allowed the petition under Order XVI Rule 10 of CPC compelling the attesting witnesses to appear before the Court to let in evidence. The case of defendants itself is based on the will and as such to prove the will, the presence of attesting witnesses is necessary and accordingly, the trial Court allowed the petition. Therefore, I do not find any discrepancy in the same. As such, the order of the trial Court in allowing the petition need not be interfered.

4. In the result, the Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is also dismissed.

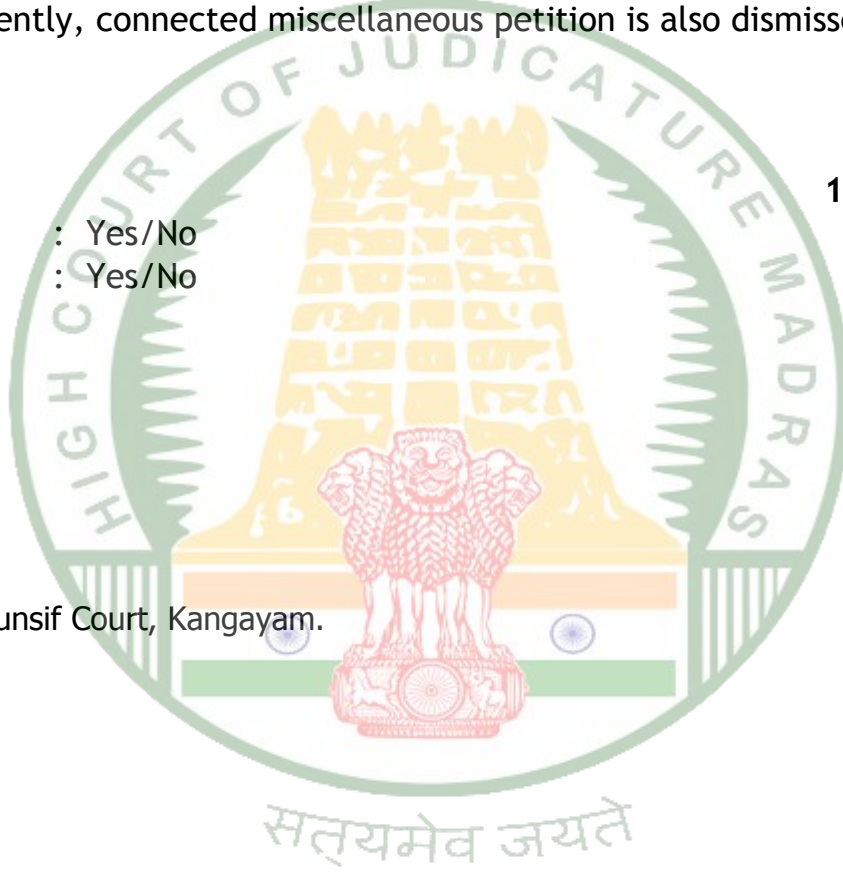
10.07.2017

Index : Yes/No
Internet : Yes/No

asi/rpl

To

District Munsif Court, Kangayam.



WEB COPY

M. GOVINDARAJ, J.

asi/rpl



C.R.P.(PD) No.2105 OF 2017
AND CMP. NO.10031 OF 2017

WEB COPY

10.07.2017