

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) NO.2453 OF 2017

AND

CMP NOS.11615 AND 11616 OF 2017

1.Krishnaveni
2.M.Markandan
3.E.Subramani

... Petitioners

Vs.

1.Vijaya
2.Savithri
3.The Sub Registrar
Arakkonam.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 27.06.2017 passed in I.A.No.95 of 2016 in O.S.No.49 of 2000 on the file of the District Munsif Court, Arakkonam.

For Petitioners : Mr.R.Balasubramanian

ORDER

The defendants are the revision petitioners. In a suit filed for permanent against the revision petitioners, an interlocutory application was filed to implead the mother of the first respondent /

plaintiff. The Trial Court dismissed the interlocutory application, against which, the present Civil Revision Petition is filed.

2. The case of the revision petitioners is that the mother of the first respondent / plaintiff had executed a gift settlement deed in favour of the first respondent / plaintiff, without having any title for the same. The other proposed party is the Sub Registrar, for having registered the same. Whether these parties are necessary to decide the suit and also the legal right of the revision petitioners to implead the proposed parties is the point to be decided.

3. As stated supra, the suit is for permanent injunction restraining the defendants / revision petitioners from interfering with the peaceful possession of the plaintiff / first respondent. The issue involved is as to who is in possession of the property. But the revision petitioners with a view to decide the right and title of the parties, sought to implead the proposed parties. According to the first respondent/plaintiff, it is nothing but an attempt to protract the proceedings. Even on an earlier occasion, the defendants / revision

petitioners were set *exparte* and the Appellate Court had set aside that order and remanded the matter back to the Trial Court with a condition to dispose of the suit itself within the specified time. The suit was filed in the year 2000 and the revision petitioners are successfully dragging on the matter on one pretext or other. The Trial Court considering the belated application to implead the unnecessary parties and having found that it is only to protract the proceedings, dismissed the interlocutory application.

4. This Court also considers that the first respondent / plaintiff is the *dominus litis* in the suit. The first respondent / plaintiff can decide as to who should be impleaded as parties. In the event the defendants would prove that the suit is bad for non joinder of parties, the Court concerned will dismiss the suit. On the other hand, to prove the case of the defendants, they cannot compel the first respondent / plaintiff to implead the parties proposed by them. In the instant case, the defendants / revision petitioners are seeking to implead the mother of the first respondent / plaintiff to prove their title and also to set aside the gift settlement deed indirectly. For the above said purpose, it is not

necessary to implead the proposed parties. If at all the revision petitioners / defendants want to establish their title, they can do so, by adducing evidence through witnesses. Instead, the revision petitioners are attempting to bring the unnecessary parties in the suit. As such attempt, as found by the Trial Court is only to protract the proceedings and the order passed by the Trial Court does not require any interference. As already noted, the suit is pending for the past 17 years. In such circumstances, the Trial Court is directed to dispose of the suit within a period of two months from the date of receipt of a copy of this order.

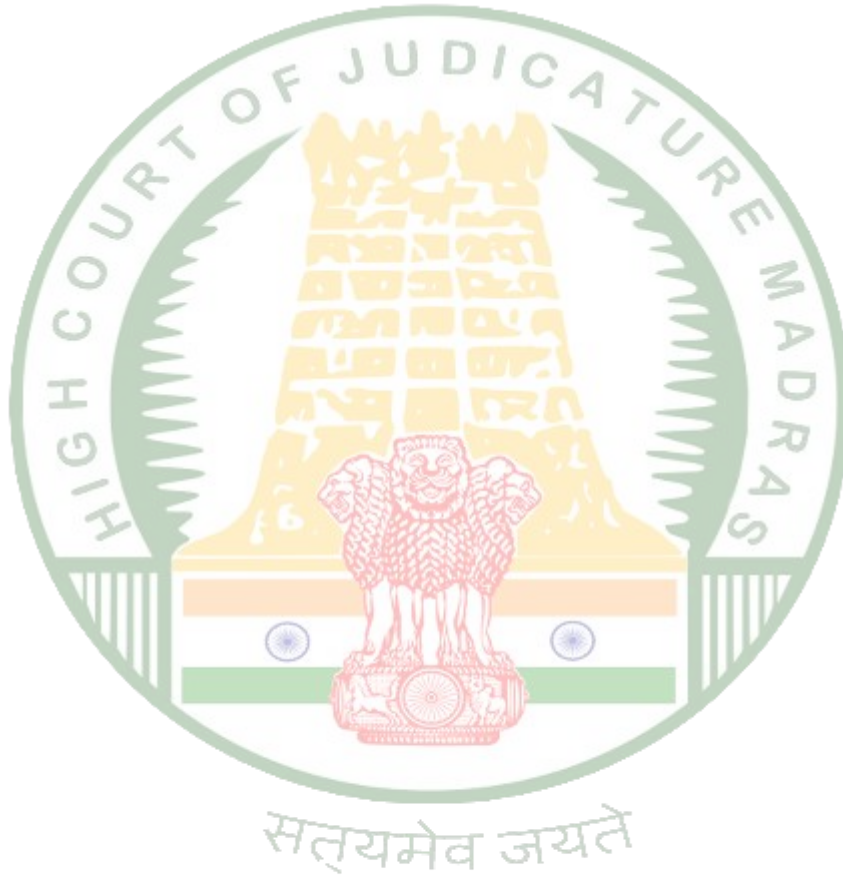
5. The Civil Revision Petition is dismissed with the above observation and direction. No costs. Consequently, connected civil miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
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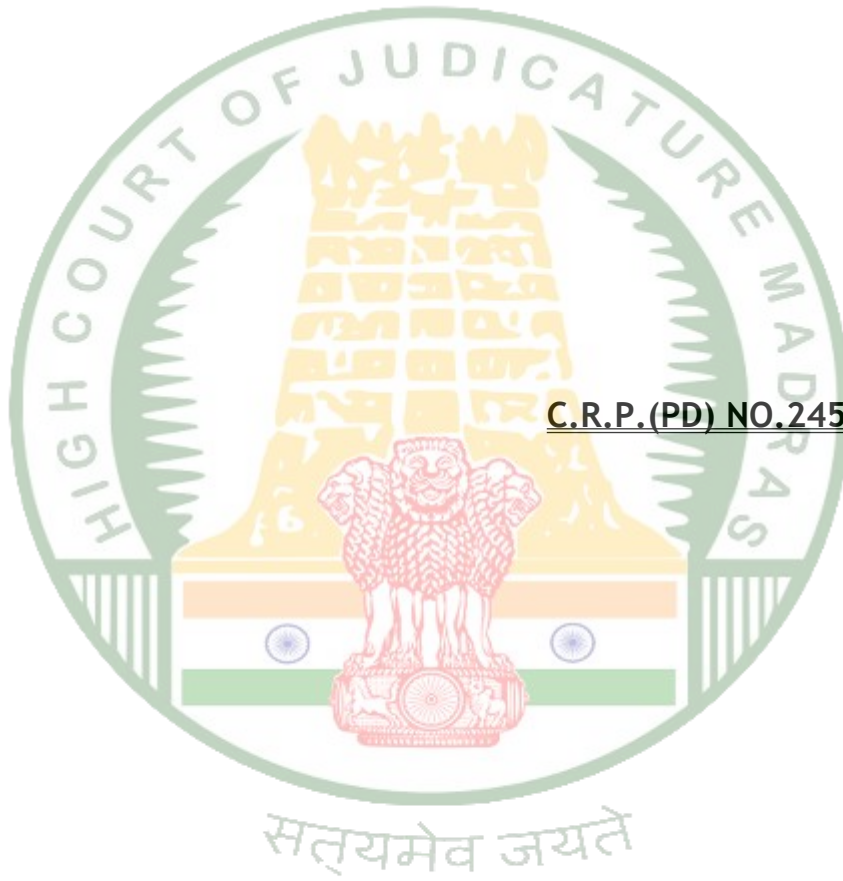
The District Munsif
Arakkonam.



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M.GOVINDARAJ, J.

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