

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No.3808 of 2017

and

C.M.P. No.17741 of 2017

G. Selvi

..Petitioner

Vs.

R. Manivel

..Respondent

Prayer:- The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the docket order passed in O.S. No.298 of 2012 dated 04.10.2017 on the file of District Munsif Court, Ambattur.

For Petitioner : Mr. K. Mohana Murali

For Respondent : Mr. R. Rajesh

ORDER

This Civil Revision Petition is filed against the docket order passed in O.S. No.298 of 2012 dated 04.10.2017 on the file of District Munsif Court, Ambattur.

2. The respondent has filed the suit in O.S.No. 298 of 2012 for declaration and possession. During trial, the respondent plaintiff attempted to mark an unregistered sale deed dated 29.04.1994, said to have been executed by one Muthu in favour of the Plaintiff. However, on 04.10.2017, the Court below has passed an order, directing to send the impounded document to the District Collector, Tiruvallur for collecting stamp duty/ registration charges. Challenging the said order, the present revision petition has been filed.

3. The learned counsel for the petitioner would submit that the order dated 04.10.2017 passed by the court below is not in consonance with the provisions, under the Civil Procedure Code and the decisions of this Court. The court below has to follow the procedures as contemplated under the Act. No opportunity has been given to the petitioner before passing the impugned order.

4. The learned counsel for the respondent would submit that the trial court has passed the order on the basis of the provisions

under Section 33 of the Indian Stamp Act, for collecting the deficit

stamp duty. Further, for impounding a document there is no necessity for granting an opportunity to the other side.

5. In the light of the above said submissions of the learned counsel for the parties concerned and on perusal of the order, it clearly shows that the court below has not given an opportunity to the revision petitioner to make his submission. Hence, the docket order passed by the court below on 04.10.2017, is liable to be set aside.

6. Accordingly, the Civil Revision Petition is allowed and the docket order dated 04.10.2017 in O.S.No. 298 of 2012 is set aside. However, the trial court shall consider afresh, after providing an opportunity to the parties concerned. Consequently, the connected Miscellaneous Petition is closed. No costs.

16.11.2017

Index :Yes/No

[Issue order copy on 11.01.2018]

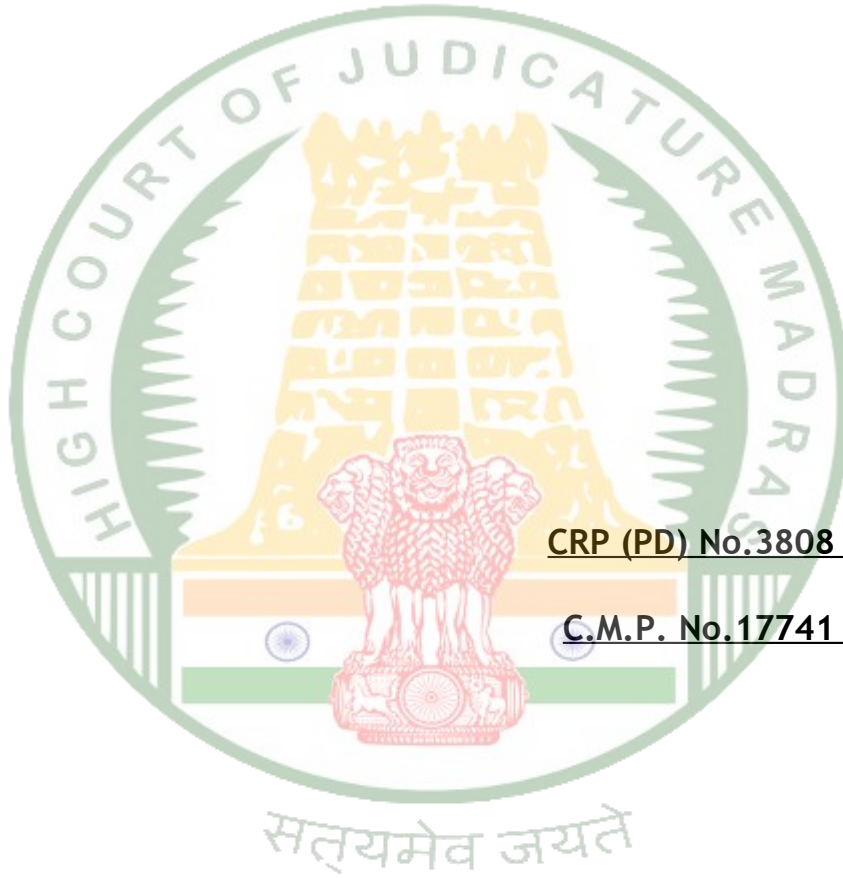
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To

The District Munsif Court,
Ambattur.

D.KRISHNAKUMAR,J.

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