

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3656 of 2014

K.Aathmalingam ... Petitioner

Vs.

S.Rajarajeswari .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 20.03.2014 made in I.A.No.1161 of 2013 in O.S.No.326 of 2013 on the file of the Court of the District Munsif, Pollachi.

For Petitioner : Mr.R.Nandhakumar

For Respondent : Mr.C.Veeraraghavan

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 20.03.2014 made in I.A.No.1161 of 2013 in O.S.No.326 of 2013 on the file of the Court of the District Munsif, Pollachi.

2.The petitioner is the plaintiff and respondent is the defendant in O.S.No.326 of 2013. The petitioner filed the said suit for recovery of a sum of Rs.34,410/- with subsequent interest for

Rs.30,000/- at the rate of 12% per annum. Along with the suit, the petitioner also filed I.A.No.1161 of 2013 for a direction to the respondent to furnish a security for Rs.40,000/- failing which conditional order of attachment of the petition property. According to the petitioner, he came to know through a land broker that the respondent is taking steps to sell the property to third parties to defeat the execution of the decree that may be passed in favour of the petitioner and therefore, prayed for a direction to furnish security for a sum of Rs.40,000/- failing which order attachment.

3.The respondent filed counter affidavit and submitted that the property does not belong to the respondent. The petition property originally belonged to her mother, who by a Will bequeathed the said property to her father. On the death of her mother, the father of the respondent became absolute owner of the property.

4.Before the learned Judge, the petitioner did not let in any oral evidence and he filed and marked gift settlement deed dated 10.03.2003, executed by her grand father, in favour of her mother as Ex.P1. On the side of the respondent, neither oral nor documentary evidence has been adduced.

5.The learned Judge, considering the averments in the affidavit, counter affidavit and documents filed by the petitioner, came to the conclusion that the property does not belong to the respondent and dismissed the application.

6.Against the said order 20.03.2014 made in I.A.No.1161 of 2013 in O.S.No.326 of 2013, the petitioner has come out with the present Civil Revision Petition.

7.Heard the learned counsel appearing for the petitioner as well as the respondent and perused the materials available on record.

8.From the materials available on record, it is seen that the petitioner has not proved that petition property sought to be attached belongs to the respondent. The document filed by the petitioner shows that property is in the name of mother of the respondent. The learned Judge, taking into consideration the averments in the counter affidavit filed by the respondent, dismissed the application. I find no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 20.03.2014.

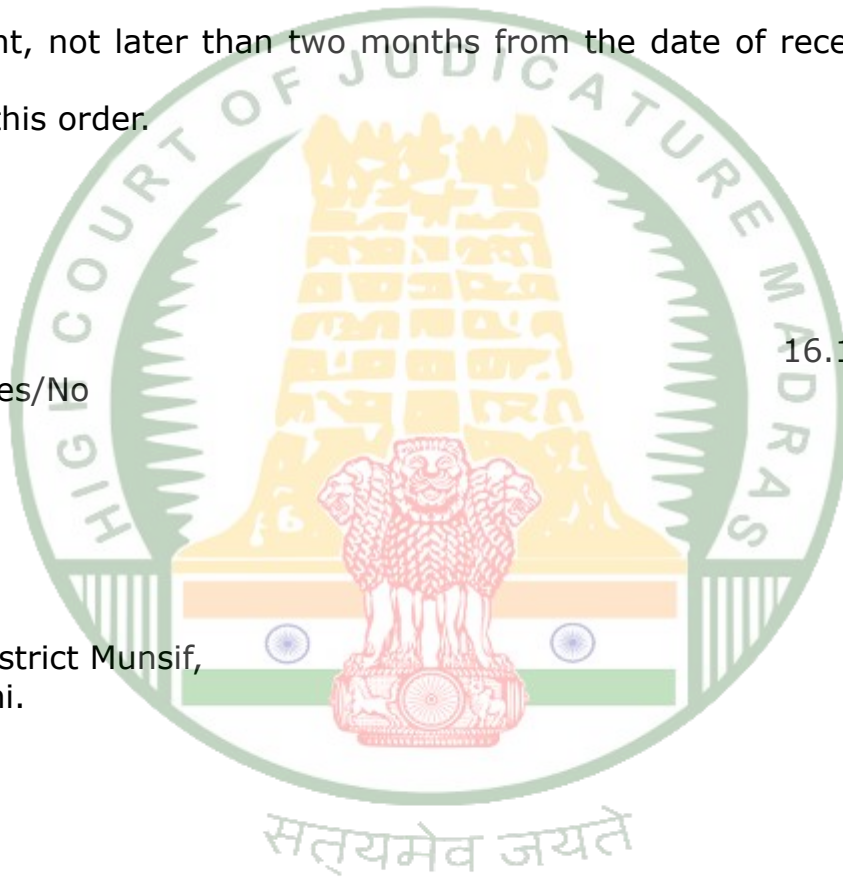
9. In the result, this Civil Revision Petition is dismissed. No costs. The suit is of the year 2013. The learned District Munsif, Pollachi is directed to dispose the suit as expeditiously as possible in any event, not later than two months from the date of receipt of a copy of this order.

Index: Yes/No
gsa

To

The District Munsif,
Pollachi.

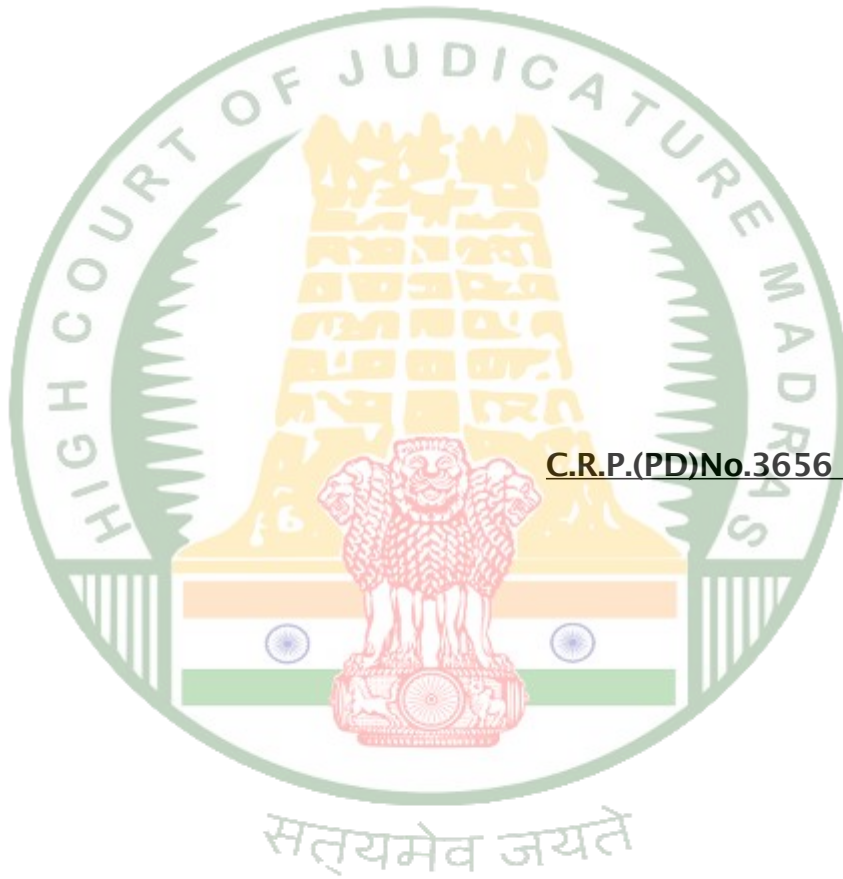
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V.M.VELUMANI,J.

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