

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.PD.No.4040 of 2017 and
CMP.No.18887 of 2017

Rajammal

..Petitioner

Vs.

1. Leela @ Leelavathi

2. Nithan

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Judgment and Decree dated 22.09.2017 made in CMA. No.1 of 2017 on the file of the Sub Court, Palacode.

For Petitioner : Mr.Paguttharivu

For Respondents : Mr.C.Munusamy for R1

ORDER

According to the revision petitioner, the revision petitioner has filed a suit in O.S.No.172 of 2016 for declaration and permanent injunction. In the above said suit, the petitioner has filed an application in I.A.No.859 of

2016 for interim injunction restraining the respondents from alienating the suit property. The aforesaid application was partly allowed. Aggrieved by the same, the revision petitioner has filed an appeal in CMA. No.1 of 2017 before the Sub Court, Palacode and the same was allowed. Challenging the above said order, the present Civil Revision Petition has been filed by the revision petitioner.

2. According to the learned counsel for the petitioner, the revision petitioner has already filed a suit in OS.No.75 of 2016 and OS.No.83 of 2013 on the file of the District Munsif, Palacode. If the respondents are alienating the suit property, it would cause severe hardship to the revision petitioner to execute the Judgment and Decree that would be passed in favour of the revision petitioner.

3. The learned counsel for the respondents submit that if any alienation is made pending the suit shall be subject to the outcome of the suit. Therefore, the appellate Court has rightly allowed the appeal passed by the court below.

4. In the light of the submissions made by the learned counsel for the parties, this Court is not inclined to interfere with the order passed by the appellate Court. But however, any alienation made by the respondents

shall be subject to the outcome of the suit.

5. Now, the learned counsel for the petitioner has requested this Court that it may be made clear that the observations made in the appeal will not influence the order to be passed in the suit.

6. In the light of the above, this Court is not inclined to interfere with the order passed by the court below. But however any alienation made by the respondents will be subject to the outcome of the suit. The trial Court has to consider the suit independently and without being influenced by the order passed by the appellate court.

7. The Civil Revision Petition is disposed of with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

14.11.2017

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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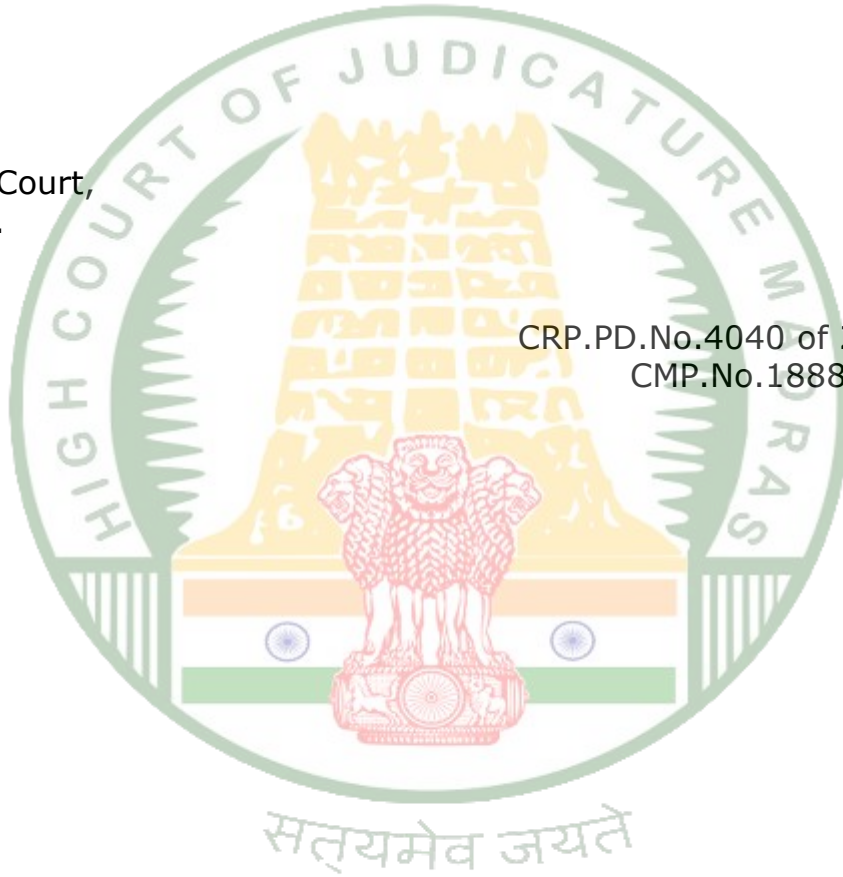
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D.KRISHNAKUMAR. J,

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To

The Sub Court,
Palacode.



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