

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P.(PD). No.4515 of 2017
and
C.M.P. No.21296 of 2017

K.Dhandapani

.. Petitioner

Vs.

1.K.Murugasekar
2.K.Karthikeyan
3.Renuka

.. Respondents

PRAYER: This Civil Revision Petition filed under Article 115 of the Constitution of India the Civil Revision Petition, to set aside the order dated 11.07.2017 in I.A. No.295 of 2017 in O.S. No.547 of 2007, passed by the learned Judge of I Additional Subordinate Court, Coimbatore and allowed the Civil Revision Petition.

For Petitioner : Mr. S. Senthamil Selvan

ORDER

This Civil Revision Petition has been filed by the revision petitioner to set aside the order dated 11.07.2017 in I.A. No.295 of 2017 in O.S. No.547 of 2007, passed by the learned I Additional Subordinate Judge,

Coimbatore.

2. The respondents 1 & 2 have filed the suit in O.S. No.547 of 2007 before the I Additional Subordinate Judge, Coimbatore, for the relief of partition. Pending the aforesaid suit, an I.A. No.295 of 2017 was filed by the revision petitioner to add some omitted portion as "B" schedule properties under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure. The Court below without appreciating the contention raised by the petitioner, erroneously dismissed the said application. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. According to the learned counsel for the petitioner, the petitioner also filed O.S. No.916 of 2011 before the Court below, that is also for partition and separate possession. In the aforesaid suit "A" & "B" schedule properties have been included, whereas in the suit has been filed by the respondents 1 & 2, "B" schedule properties purchased by the first respondent have been omitted. Hence, the petitioner has filed an application to combine the other property as "B" schedule. If the said property has been included in the suit no prejudice would be caused to the respondents. Therefore, the order passed by the trial Court is liable to be set aside.

4. On a perusal of the records, it is seen that the respondents

have filed the suit in the year of 2007 and the other suit filed by the revision petitioner in O.S. No.916 of 2011 in the year of 2011. The trial commenced in both the suits, the present amendment application has been filed belatedly by the revision petitioner in I.A. 295 of 2017 in O.S. No.547 of 2007. The respondent in their counter statement, by stating that there is no reason found in the affidavit, filing the instant application belatedly, at the trial stage. Admittedly, the petitioner has also filed O.S. No.916 of 2017 and the same has also been posted for simultaneous trial in both the suits. Therefore, the order passed by the trial Court is perfectly valid.

5. Therefore, there is no warrants of interference with the order passed by the Court below. Accordingly, the Civil Revision Petition stands dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

13.12.2017

RKP

Index: Yes/No

Internet: Yes/No

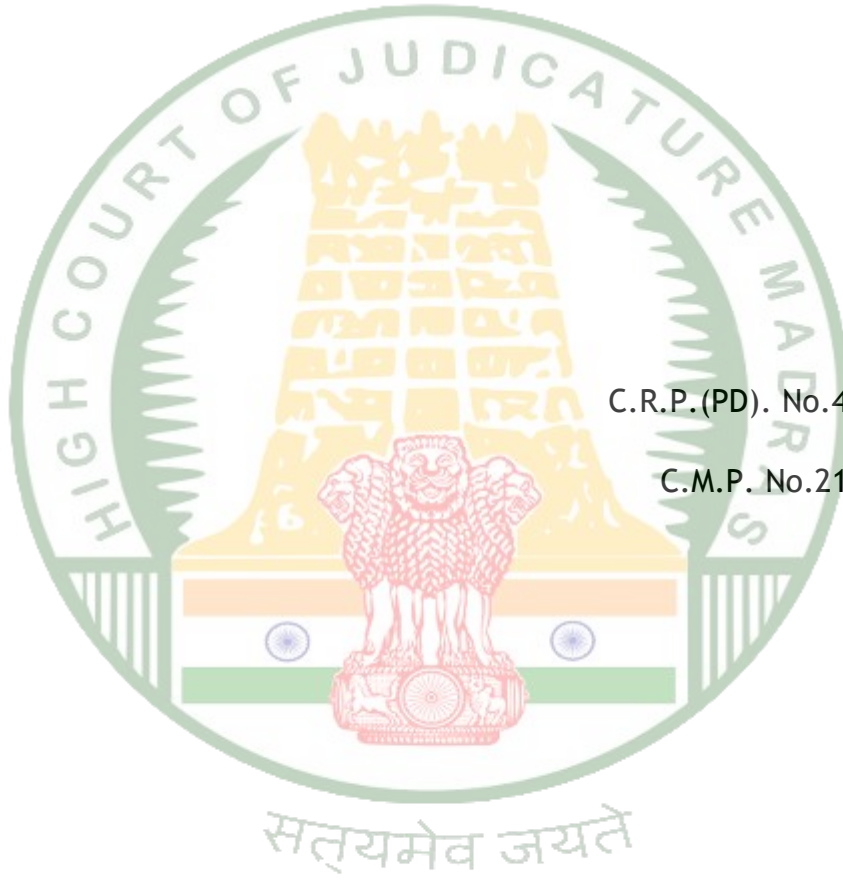
To

The I Additional Subordinate Judge,
Coimbatore.

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D. KRISHNAKUMAR J.

RKP



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