

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

CRP.PD.No.4593 of 2017

and

C.M.P.No.21649 of 2017

1.S.S.Abdul Kareem

2.S.S.Farida Banu

..Petitioners

Vs.

S.S.Ibunu Sawood

..Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 12.10.2017 passed by the learned II Additional District Munsif Court, Salem in I.A.No.681 of 2017 in O.S.No.2182 of 2004.

For Petitioners : Mr.P.Jagadeesan

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ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 12.10.2017 passed by the learned II Additional District Munsif Court, Salem in I.A.No.681 of 2017 in O.S.No.2182 of 2004.

2.The learned counsel for the petitioners would submit that the respondent herein has filed suit in O.S.No.2182 of 2004 seeking for the relief of partition and separate possession. The revision petitioners herein filed written statement and contested the aforesaid suit. Since the revision petitioners have not raised some important aspects in the additional written statement, they filed an application in I.A. No.681 of 2017 to receive the additional written statement. The Court below has erroneously dismissed the said application by stating that the counter statement has already been filed by the respondent which was objected and that the petitioners have filed one application after another before the Court below to drag on the proceedings. Therefore, considering the said contention of both the parties, the trial Court dismissed the said Application.

3.According to the learned counsel for the revision petitioners, the Court below, without providing sufficient opportunity to defend the case of the petitioners, has erroneously dismissed the aforesaid application.

4. The learned counsel for the petitioners would submit that the present application is filed even though after inordinate delay, however, in the interest of justice, left out the facts of including the revision petitioners' properties and the defendant's property in the plaint schedule property. No prejudice would be caused to the respondent by allowing the said application.

5. Heard the learned counsel for the petitioners and perused the material available on record.

6. The respondent filed the suit in the year 2004. The present application has been filed at the time when trial commenced. At present, PW.1 was examined. The present application has been filed by the petitioner after nearly 13 years seeking permission to file additional written statement. On a perusal of facts pleaded in the additional written statement, it is seen that the previous counsel on record expired and so, the revision petitioners were unable to proceed with the case. Hence, thereafter, the revision petitioners have filed the present application before the Court below. The aforesaid reasons have not been furnished in the affidavit. Therefore, no sufficient reasons were

given by the petitioners for the inordinate delay in filing the application, that too at the stage when the trial commenced. Therefore, nothing warranted to interference with the impugned order.

7. Accordingly, the Civil Revision Petition is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

14.12.2017

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
RKP

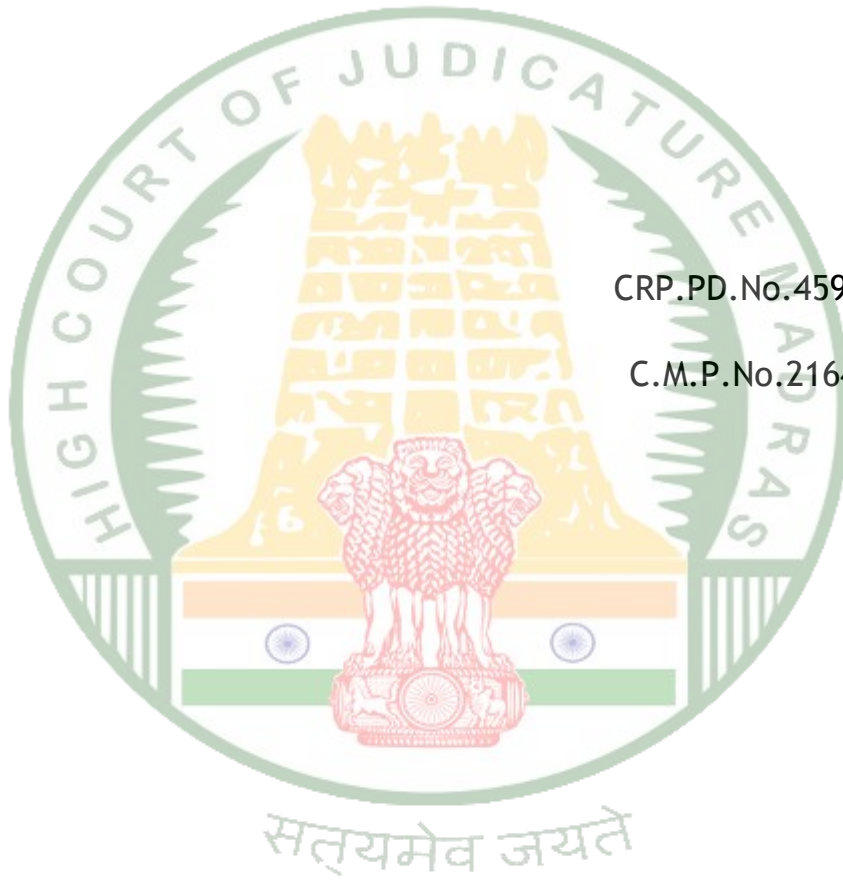
To
The II Additional District Munsif,
Salem.



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D. KRISHNAKUMAR.J.,

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