

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1948 & 1503 of 2011
M.P.Nos.1 & 1 of 2011

1.S.Thangaraj
2.P.Saravanakumar

..Petitioners in
C.R.P.No.1948 of 2011

1.P.Appacchinnan
2.P.Venkatachalam

.. Petitioners in
C.R.P.No.1503 of 2011

Vs.

1.Valliammal
2.P.Gopalakrishnan
3.M.Sakunthala
4.V.K.Subramaniam
5.P.Lingamoorthy
6.Karuppasamy Gounder
7.Palanisamy gounder
8.T.C.Palanisamy
9.S.Varadharajan
10.M.Paramasivam
11.M.Loganathan
12.M.Thirumoorthy
13.T.Selvaraj
14.T.Ravichandran
15.P.Pannerselvam
16.P.Baskaran
17.P.Ganesan

.. Respondents
in both the C.R.Ps'

18.P.Appachinnan
19.P.Venkatachalam

.. 18th & 19th Respondents
in C.R.P.No.1948 of 2011

18.S.Thangaraj
19.P.Saravanakumar

.. 18th & 19th Respondents
in C.R.P.No.1503 of 2011

20.P.Subramaniam
21.P.Devarajan

.. 20th & 21st Respondents
in both the C.R.Ps'

COMMON PRAYER: Civil Revision Petitions filed Under Article 227 of the Constitution of India, against the fair and decretal orders dated 22.02.2011 made in I.A.Nos.151 & 152 of 2010 in O.S.Nos.199 & 200 of 2009 on the file of the Subordinate Judge, Perundurai.

For Petitioners : Mr.V.S.Kesavan
(in both the C.R.Ps')

(In C.R.P.No.1948/2011)

For R1 to R8 : Mr.V.Manohar

For R9 : No appearance

(In C.R.P.No.1503/2011)

For R1 to R9 : Mr.V.Manohar

For R10 to R21 : Given up
(in both the C.R.Ps')

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal orders dated 22.02.2011 made in I.A.Nos.151 & 152 of

2010 in O.S.Nos.199 & 200 of 2009 on the file of the Subordinate Judge, Perundurai.

2. The issues involved in both the civil revision petitions are one and the same. Therefore, disposed of by this common order.

3. The petitioners are the plaintiffs, respondents 1 to 9 are the defendants and respondents 10 to 21 are the proposed parties in O.S.Nos.199 & 200 of 2009 on the file of the Subordinate Judge, Perundurai. The petitioners filed the said suit for declaration that they are the absolute owners of the 'A' schedule property and for permanent injunction restraining the respondents 1 to 9 from interfering with their peaceful possession and enjoyment of the suit property. The respondents 1 to 9 filed written statement on 02.06.2008 and denied the title of the petitioners and are contesting the suit. The trial commenced. At that stage, the petitioners filed I.A.No.151 of 2010 for impleading the respondents 10 to 21 as defendants 10 to 21 in the suit. According to the petitioners, the proposed parties have filed the suit in O.S.No.21 of 2008 against the respondents 1 to 9 on the file of the District Munsif, Perundurai. The proposed 20th respondent and another filed

O.S.No.22 of 2008 against the proposed parties/ respondents 10 to 17 for declaration of their title. Both the suits are pending against the petitioners and respondents 1 to 9, claiming title over the suit property in both the suits. The property in both the suits are one and the same. In order to avoid multiplicity of proceedings, the proposed parties are necessary and filed an application.

4. The second respondent filed counter affidavit on 16.06.2010 and the same was adopted by the respondents 1 and 3 to 9. The respondents 1 to 9 submitted that the petitioners and proposed parties do not have any title and petitioners have not specifically stated that proposed parties are necessary to the suit. The learned Judge, considering the averments in the affidavit, counter affidavit and materials on record, dismissed the application holding that the petitioners have not stated as to how the proposed parties are necessary and proper parties except stating in order to avoid multiplicity of proceedings, proposed parties are necessary and proper party to the suit.

5. Against the said orders dated 22.02.2011 made in I.A.Nos.151 & 152 of 2010 in O.S.Nos.199 & 200 of 2009, the

petitioners filed the present two civil revision petitions.

6. Heard the learned counsel appearing for the both the petitioners in both the civil revision petitions, respondents 1 to 8 in C.R.P.No.1948/2011 and respondents 1 to 9 in C.R.P.No.1503/2011. Though notice was served on the 9th respondent in C.R.P.No.1948/2011 and his name is printed in the cause list, there is no representation either in person or through counsel.

7. The petitioners have given up the civil revision petitions against the proposed parties. The learned counsel appearing for the petitioners submitted that the proposed parties remained exparte in the I.A filed by them for impleading the proposed parties and therefore the proposed parties/respondents 10 to 21 have been given up in the civil revision petitions.

8. From the materials on record, it is seen that the petitioners seek impleading of the respondents/proposed parties as defendants in the suit filed by them. According to the petitioners, the proposed parties are necessary as they have filed the suit against the respondents 1 to 9 for same relief in respect of the same property

and in order to avoid multiplicity of proceedings, proposed parties are necessary parties. This contention is not valid for impleading the proposed parties as defendants in the suit. The proposed parties have already filed suit in O.S.Nos.21 and 22 of 2008 for declaration of title against the petitioners and respondents 1 to 9. In the circumstances, the contention of the learned counsel appearing for the petitioners that in order to avoid multiplicity of proceedings, proposed parties are necessary is without merits. In order to avoid any contradictory judgment in the suit filed by the petitioners as well as the proposed parties, it is open to the petitioners to seek joint trial. There is no illegality or irregularity warranting interference with the order of the learned trial Judge dated 22.02.2011.

9. Accordingly, both the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

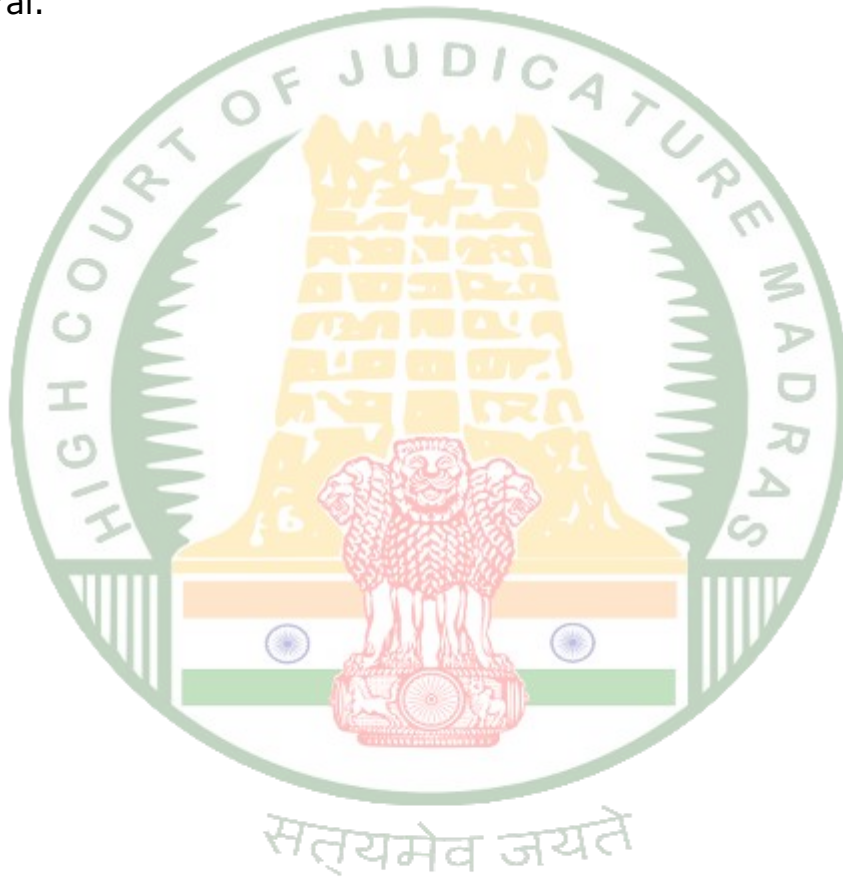
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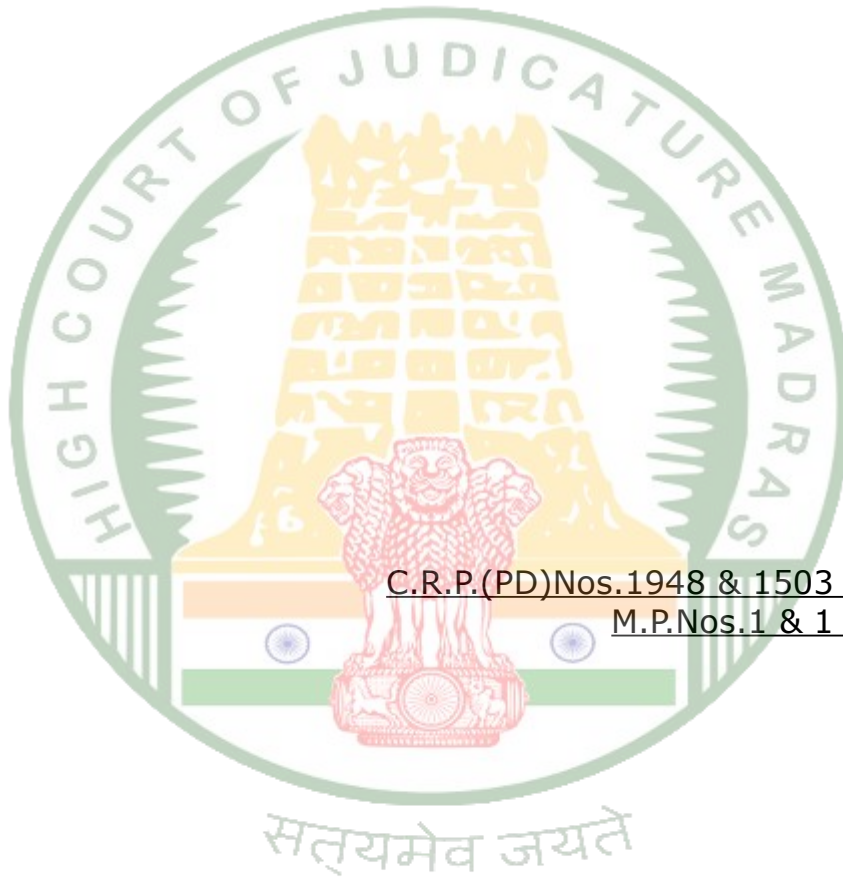
The Subordinate Judge,
Perundurai.



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V.M.VELUMANI, J.

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