

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1210 of 2010
& M.P.No.1 of 2010

1.V.N.Lakshmi (Deceased)

2.V.J.Lakshmi

3.Chitra Ramadass

4.V.Girija

5.V.S.Lakshmi

6.V.Kishore Kumar

7.Vijaya Latha

.. Petitioners

(Petitioners 2 to 7 brought on record as legal heirs of deceased first petitioner vide order of this Court dated 07.08.2017 by V.M.V.J., made in M.P.Nos.1 & 2 of 2013 in C.R.P.No.1210 of 2010)

Vs.

Sri Vedantha Desikar Devasthanam,

Represented by its Trustees

i.V.Venkatesh

ii.S.Sathyanarayanan

iii.V.N.Srinivasan

5, K.P.Koil Sannathi Street,
Mylapore, Chennai – 600 004.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order of the VII

Assistant City Civil Judge at Madras in rejecting the application dated 05.03.2010 made in I.A.No.4903 of 2010 in O.S.No.7640 of 2006.

For Petitioners : Mr.V.Lakshminarayanan

For Respondent : Mr.Suresh Sampath
for Mr.T.V.Krishnamachari

ORDER

This Civil Revision Petition has been filed against the order and decretal order of the VII Assistant City Civil Judge at Madras in rejecting the application dated 05.03.2010 made in I.A.No.4903 of 2010 in O.S.No.7640 of 2006.

2. The deceased V.N.Lakshmi, who is the first petitioner, is the defendant and respondent is the plaintiff in O.S.No.7640 of 2006. The respondent filed suit for recovery of possession. The said V.N.Lakshmi filed written statement on 26.12.2006 and was contesting the suit. The trial commenced and the parties let in evidence. The respondent advanced his arguments and when the suit was posted for arguments on behalf of the deceased V.N.Lakshmi/defendant/first petitioner herein, filed I.A.No.4903 of 2010 to send for the records pertaining to the suit in O.S.No.4650 of 2001 on the file of the V Assistant City Civil Court at Madras and

the judgment in the said suit.

3. According to the deceased first petitioner/defendant, the respondent filed O.S.No.4650 of 2001 on the file of V Assistant City Civil Court at Madras against one T.S.Govindarajan who is residing adjacent to the suit premises. The said suit filed by the respondent was dismissed after contest. The finding in the said suit is essential to decide the issue in the present suit. In spite of the best efforts made by the deceased first petitioner, she could not get the copy of the judgment. The respondent did not file any counter.

4. The learned Judge considering the materials available on record and taking note of the fact that after conclusion of trial and after the arguments advanced by the learned counsel for the respondent, the deceased first petitioner has come out with the present application only to drag on the proceedings, dismissed the application.

5. Against the order of dismissal dated 05.03.2010 made in I.A.No.4903 of 2010, the present civil revision petition is filed by the petitioners.

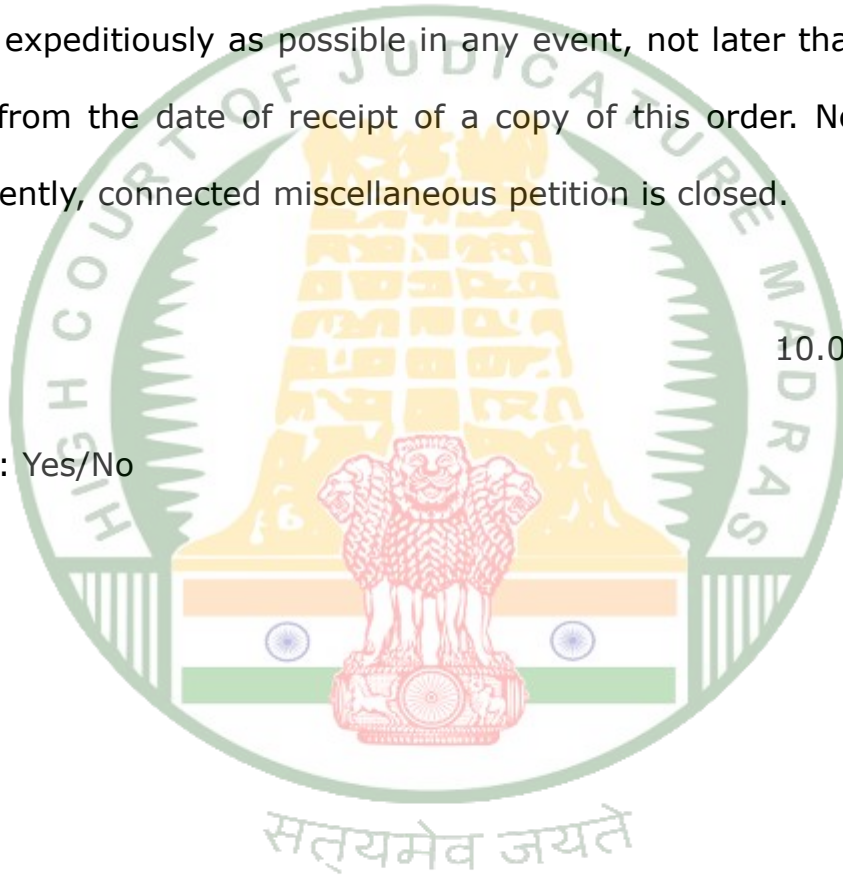
6. Heard the learned counsel for both sides and perused the materials available on record.

7. The deceased first petitioner in the affidavit filed in support of the application has not stated that when the judgement was delivered in O.S.No.4650 of 2001, when she has applied for copy of the said judgment and whether it was refused by the learned Judge. The first petitioner stated that in spite of her best efforts, she could not get the copy of the judgment. The first petitioner is not a party to the suit in O.S.No.4650 of 2001, but she can file an application as a third party and obtain certified copy of the judgment and decree. In the affidavit, the first petitioner has not stated whether she has taken such steps. The first petitioner has filed the present application only when the suit was posted for arguments on her behalf, after hearing the arguments of the learned counsel for the respondent. Therefore, the application filed by the first petitioner is belated one and she has not given any valid reason. The learned Judge has rightly dismissed the application and there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 05.03.2010.

8. In the result, this Civil Revision Petition is dismissed. As the suit is of the year 2006, the learned VII Assistant Judge, City Civil Court at Madras is directed to dispose the suit in O.S.No.7640 of 2006 as expeditiously as possible in any event, not later than three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

10.08.2017

Index : Yes/No
dm/kj



WEB COPY

V.M.VELUMANI, J.

dm/kj

To

The VII Assistant Judge,
City Civil Court, Madras.



C.R.P.(PD)No.1210 of 2010
& M.P.No.1 of 2010

WEB COPY

10.08.2017