

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.781 & 782 of 2017
& C.M.P.Nos.3872 & 3873 of 2017

Pechammal

.. Petitioner in
both C.R.Ps'

Vs.

1.G.Arumugam

2.Manivannan

3.Tamil Nadu Industrial
Investment Corporation,
Rep. By its Branch Manager
1 Bharathi Road,
Cuddalore District.

4.Tamil Nadu Industrial
Investment Corporation
Registered Office,
473, Anna Salai,
Nandanam,
Chennai - 35.

5.Ramachandran

.. Respondents in
both C.R.Ps'

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.04.2016 made in I.A.Nos.208 and 209 of 2016 in O.S.No.67 of 2010 on the file of the Sub Judge, Neyveli.

For Petitioner : Mr.C.T.Mohan

For Respondents : Mrs.R.Meena for R1
Mr.K.Magesh for R3 & R4
No appearance for R2
Notice dispensed with R5

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decreetal order dated 26.04.2016 made in I.A.Nos.208 and 209 of 2016 in O.S.No.67 of 2010 on the file of the learned Sub Judge, Neyveli.

2. The petitioner is the plaintiff and the respondents are the defedants in O.S.No.67 of 2010. The petitioner filed suit for declaration and for recovery of possession. The respondents 1, 3 and 4 have filed written statement on 19.02.2010 and are contesting the suit. Trial commenced. The parties let in evidence and closed their sides.

3. After hearing the parties, the suit was posted for judgment on 18.03.2016. At that stage, the petitioner filed the present applications in I.A.Nos.208 and 208 of 2016 to re-open and recall the evidence of P.W.1 for further cross examination and to mark the documents. According to the

petitioner, the learned counsel appearing for respondents 3 and 4, at the time of arguments contended that the suit property is part of the mortgage created by respondents 3 and 4. In view of the said contention, it is necessary for the petitioner to file an application for appointment of an Advocate Commissioner. For the said purpose, the case has to be re-opened and recalled the evidence of P.W.1. The respondents filed counter opposing the said applications and submitted that only to fill up the lacuna, the petitioners have filed the applications and therefore, prayed for dismissal of the applications.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and the materials available on record, held that when the suit is posted for judgment, number of applications were filed and disposed of. The petitioner on an earlier occasion filed three applications in I.A.Nos.167 to 169 of 2016 and all the three applications were allowed. The petitioner was permitted to let in further evidence. However, the petitioner did not appear on the date of hearing to give evidence and her evidence was closed. The learned Judge further held that again when the suit was posted for judgment, the petitioner has come out with the present applications only to fill up the lacuna and dismissed the applications.

5. Against the order of dismissal dated 26.04.2017 made in I.A.Nos.208 and 209 of 2016, the present civil revision petitions are filed by the petitioners.

6. Heard the learned counsel for the petitioner and the learned counsel appearing for respondents 1, 3 and 4 and perused the materials available on record.

7. From the impugned orders it is seen that the petitioner contended that on the date of hearing, when the suit was posted for her evidence, suddenly, she suffered chest pain and was taken to hospital and therefore, she could not give evidence on the date. Learned Judge rejected the said contention as the petitioner did not substantiate the same by any evidence. The learned Judge has dismissed both the applications for the above reasons as well as for the reason that the petitioner is trying to fill up the lacuna and drag on the proceedings.

8. Considering all these reasons given by the learned Judge and materials available on record, I hold that there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 26.04.2017.

9. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

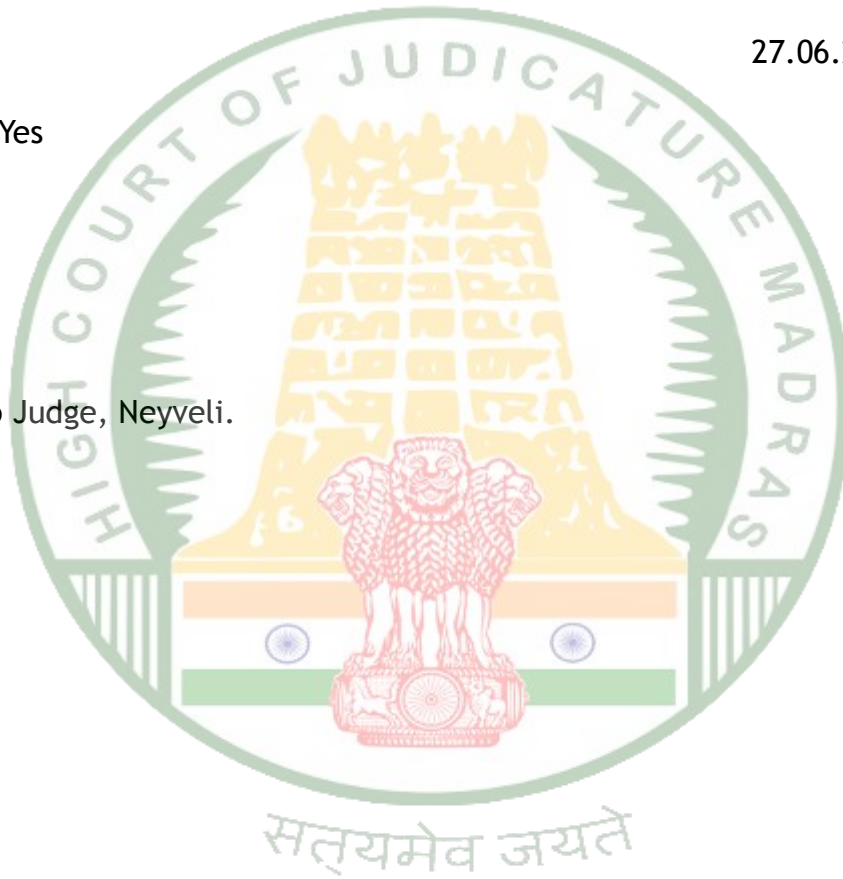
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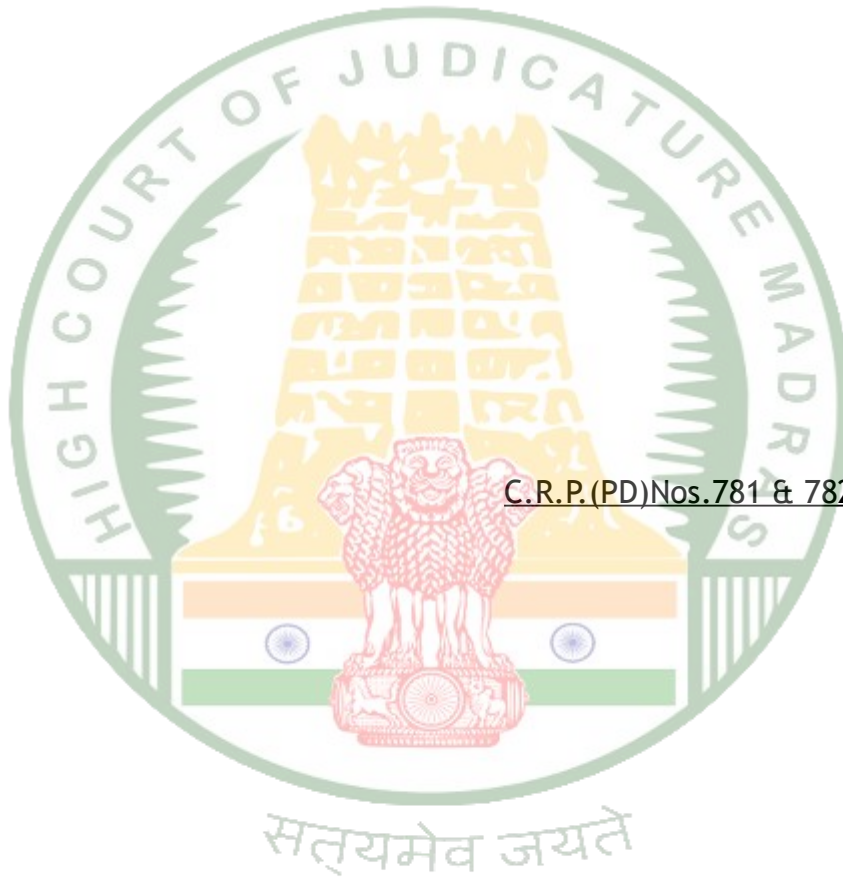
The Sub Judge, Neyveli.



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V.M.VELUMANI, J.

vsm



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