

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 03.04.2017****CORAM****THE HON'BLE MR. JUSTICE M.V.MURALIDARAN****CRP(PD)Nos.301, 332 and 333 of 2011
and
M.P.No.1 of 2011**

Ayothi Pillai .. Petitioner in all the CRPs

Vs

1.Santhi
2.Sambuga
3.The Sub-Registrar,
Valathi.

.. Respondents in all the CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the order and decretal order dated 23.09.2010 passed in I.A.Nos.1547, 1548 and 1549 of 2010 in O.S.No.135 of 2004 on the file of the Additional District Munsif, Gingee.

(In all the CRPs)

For Petitioner : Mr.R.Thanjan

For Respondents : No Appearance

COMMON ORDER

The petitioner by way of these Civil Revision Petitions seek to set aside the Fair and Decretal orders made by the learned Additional District Munsif Court, Gingee in I.A.Nos.1547, 1548 and 1549 of 2010 in O.S.No.135 of 2004, dated 23.09.2010 filed by the petitioner herein as against 1st respondent herein seeking Specific Performance of a sale agreement in respect of suit schedule property.

2. The third respondent herein is the Jurisdictional Sub-Registrar and a mandatory injunction sought against him for forbearing registration of any document in respect of suit schedule property.

3. According to the petitioner\plaintiff, there was sale agreement entered by him as vendor in respect of suit property belonging to 1st respondent. The sale consideration was arrived at Rs.87,500/- and an advance amount of Rs.15,000/- was paid. According to the petitioner, 1st respondent is duty bound to receive the balance sale consideration and execute sale deed. However as the 1st respondent failed to receive the balance sale consideration and execute the sale deed and in the

mean time he attempted to sell the suit property to 2nd defendant/respondent, hence the above suit came to be filed.

4.The trial commenced and the plaintiff side evidences was over and the petitioner herein examined himself as PW-1.

5.While matter stand as such the petitioner filed I.A.No.1547 of 2010 to re-open plaintiff side evidence and also filed I.A.Nos.1548, 1549 of 2010 to re-call PW1 and to mark the parent documents of the suit property as an exhibit on his side. The said applications were dismissed by the trial Court holding that there is no recital in the sale agreement denoting handover of the parent document to the petitioner.

6.The Learned Trial Judge further held that the applications are liable to be rejected as allowing of the above interlocutory applications will result in filling lacunae in the evidence of PW-1 which has been recorded.

7.The learned Judge further held that the sale deed might have been obtained by the petitioner from the 1st respondent by some other

way to strength his case. The said orders are under challenge in these Civil Revision Petitions.

8.I heard Mr.R.Thanjan, learned counsel for the petitioner in all the Civil Revision Petitions and perused the entire materials available on record. There is no representation on behalf of the respondents.

9.On the perusal of the impugned orders and evaluation of available records, it is patent for this Court to see that the reason started by the Trial Court is unacceptable for two concrete reasons that the Trial Court cannot barely believe the contention of 1st respondent that the documents might have been procured by some other way in the absence of any evidence to that effect and secondly recalling of evidence and marking of parent document will not amount to filling up lacunae in evidence.

10.In actual, the production of title deed by the petitioner before the Trial Court and letting in evidence will enable the Court to decide the lis between the parties appropriately.

11.It is equally important to state that it is specific case of the

petitioner/plaintiff that the parent document was handed over to him in the presence of witnesses. The petitioner is at liberty to prove alleged handing over of document through such witnesses.

12. For the forgoing reason, the impugned orders are liable to be set aside.

13. In the result:

(a) All the three Civil Revision Petitions are allowed by setting aside the orders passed in I.A.Nos.1547, 1548, and 1549 of 2010 in O.S.No.135 of 2004 respectively dated 23.09.2010 on the file of the learned Additional District Munsif, Gingee;

(b) the Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

03.04.2017

vs

Note: Issue order copy on 01.02.2019

Index: Yes

Internet: Yes

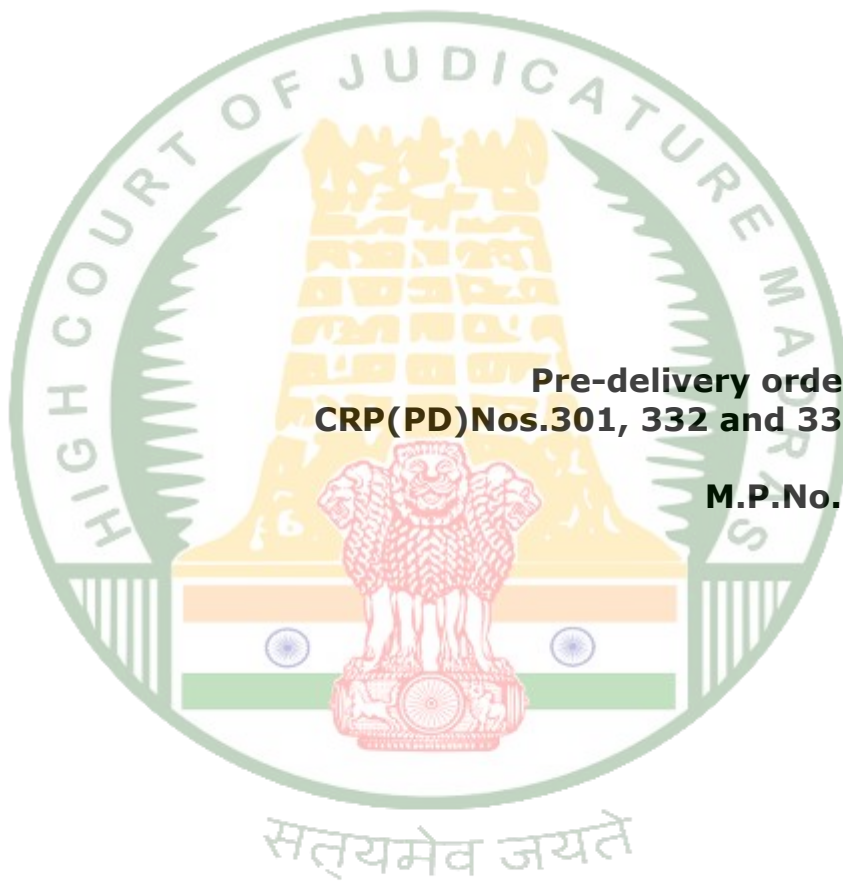
To

The Additional District Munsif, Gingee.

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M.V.MURALIDARAN,J.

VS



**Pre-delivery order made in
CRP(PD)Nos.301, 332 and 333 of 2011
and
M.P.No.1 of 2011**

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