

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.306 of 2015
& M.P.No.1 of 2015

1.Uthirabalan
2.Sivakozhundu
3.Sivanesan

.. Petitioners

Vs.

Athilakshmi

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned Additional District Munsif of Cuddalore dated 12.09.2014, passed in O.S.No.182 of 2012.

For Petitioners : Mr.R.Gururaj

For Respondent : No appearance

WEB COPY
ORDER

This Civil Revision Petition is filed to set aside the order of the learned Additional District Munsif of Cuddalore dated 12.09.2014, passed in O.S.No.182 of 2012.

2.The petitioners are the defendants and respondent is the plaintiff in O.S.No.182 of 2012 on the file of the Additional District Munsif of Cuddalore. The respondent filed the said suit against the petitioners for permanent injunction restraining the petitioners from interfering with her peaceful possession and enjoyment of the suit property. The petitioners filed written statement on 28.01.2013. The issues were framed and trial commenced. The respondent filed memo for payment of stamp duty penalty for marking unregistered sale deed dated 01.10.1984. The learned Judge, by the order dated 06.09.2013, calculated the stamp duty and penalty payable by the respondent as Rs.3,707/- and directed the respondent to pay stamp duty of Rs.337/- and penalty of Rs.3370/-, totalling Rs.3707/- on or before 10.10.2013. The suit was adjourned to various dates for payment of stamp duty penalty. The respondent did not pay the same. On 07.04.2014, the learned Judge passed an order stating that respondent has not paid Rs.3,707/- and hence the document cannot be received on the file and posted to 17.04.2014 for further orders. The suit was adjourned on various dates for marking of documents. On 03.09.2014, the counsel for respondent filed a memo stating that as per the decision reported in **2009 (5) CTC 822**, the main sale deed can be marked and relied on for collateral

purpose. The learned Judge, considering the memo, permitted the respondent to mark the documents.

3. Against the said order dated 12.09.2014, passed in O.S.No.182 of 2012, the petitioners have come out with the present Civil Revision Petition.

4. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice has been served on the respondent and her name is printed in the cause list, there is no representation either in person or through counsel.

5. The contention of the learned counsel for the petitioner that learned Judge has no power to review its own order directing the respondent to pay the stamp duty and penalty and erred in allowing marking of documents without notice to the petitioners has considerable force. From the materials on record and order of the learned Judge, it is seen that the respondent has filed memo offering to pay the stamp duty and penalty. From the impugned order of the learned Judge, it is seen that the learned Judge has not given any reason for modifying his earlier order dated 06.09.2013,

permitting the respondent to mark the document. For the above reason, the impugned order of the learned Judge is set aside. The matter is remitted back to the learned Judge for fresh consideration on merits and pass orders in accordance with law after giving opportunity to the petitioners to put forth their contentions. Till the order is passed after hearing the parties, the sale deed marked as Exhibit will be kept in abeyance.

6. With the above direction, this Civil Revision Petition is allowed. No costs. Consequently connected Miscellaneous Petition is closed.

18.12.2017

Internet: Yes/No

Index: Yes/No

gsa

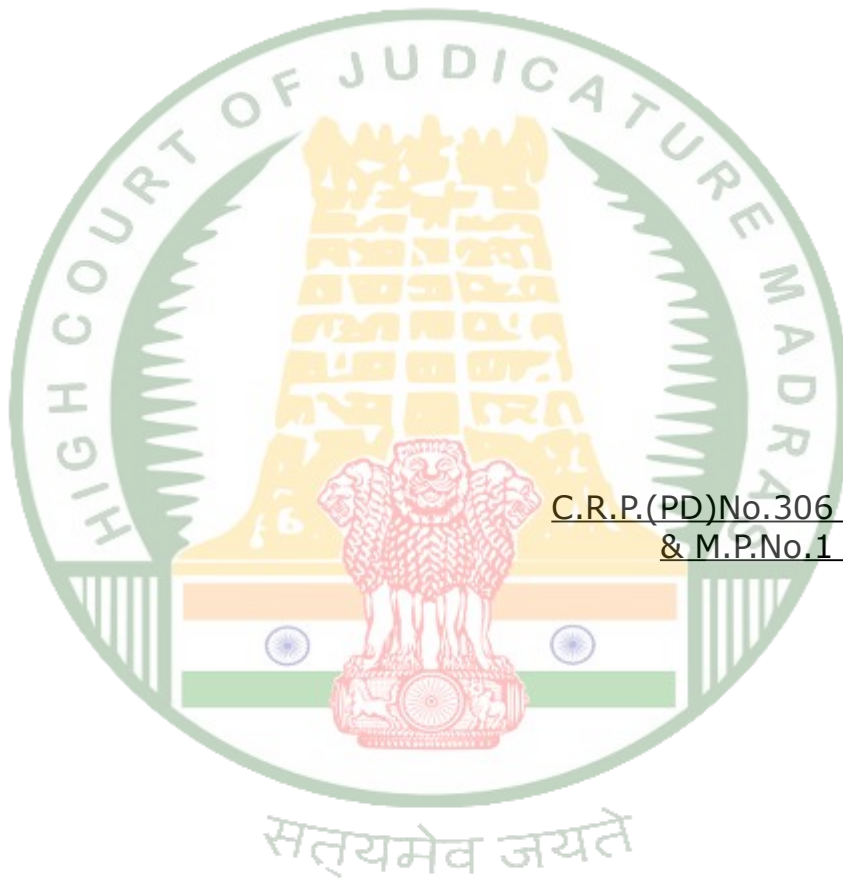
To

The Additional District Munsif
Cuddalore

WEB COPY

V.M.VELUMANI, J.

gsa



C.R.P.(PD)No.306 of 2015
& M.P.No.1 of 2015

WEB COPY

18.12.2017