

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.512 of 2015
and M.P.No.1 of 2015

1.K.V.Sennakrishnan
2.Panneerselvam

... Petitioners

Vs.

Maheswari

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 07.07.2014 made in I.A.No.322 of 2014 in O.S.No.187 of 2013 on the file of the Subordinate Court, Mettur.

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For Petitioners : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.A.Sundaravadhanan

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 07.07.2014 made in I.A.No.322 of 2014 in O.S.No.187 of 2013 on the file of the Subordinate Court, Mettur.

2. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

3. The petitioners are defendants and respondent is the plaintiff in O.S.No.187 of 2013 on the file of the Subordinate Court, Mettur. The respondent filed suit for declaration of title and to declare the cancellation deed dated 05.01.2010 executed by the first petitioner as null and void and for permanent injunction. The first petitioner filed written statement in the month of December 2013 and the same was adopted by the second petitioner. Trial commenced and the suit was posted for cross-examination of P.W.1. The petitioners took number of adjournments for cross-examination of P.W.1 and subsequently, filed I.A.No.322 of 2014 under Order VI Rule 17 of C.P.C. for amendment to amend the written statement as detailed hereunder:

“Details of amendment:

In the written statement filed by the first defendant in para 7 in 8th line, add the word “not” before the word voluntarily executed by the first defendant. ”

4. According to the petitioners, by inadvertence, the word “not” was not typed before the word voluntarily executed by the first defendant. The respondent filed counter affidavit and opposed the said application. The learned Judge considering the fact that trial was commenced, petitioners took number of adjournments for cross-examining P.W.1 and the clauses in the settlement deed, dismissed the application. Against the said order of dismissal dated 07.07.2014 made in I.A.No.322 of 2014, the present Civil Revision Petition is filed by the petitioners.

5. From the averments made in the written statement as well as affidavit filed in support of the application, it is seen that the word “not” was not typed before the word voluntarily executed by the first defendant, by inadvertence, as claimed by the petitioners. The learned Judge failed to consider the contention of the petitioners and relief sought for by the respondent in the suit and

considered the clauses of settlement deed at the stage of the suit, erroneously dismissed the application.

6. In view of the above, impugned order of the learned Judge is set aside and I.A.No.322 of 2014 is allowed. The petitioners are directed to carry out amendment within a period of two weeks from the date of receipt of a copy of this order and file amended copy of the written statement into Court within two weeks thereafter. The learned Judge is directed to take amended copy of the written statement on file and permit the respondent to file reply statement if any, if they desire to file the same.

7. With the above direction, the Civil Revision Petition is allowed. As the suit is of the year 2013, the learned Judge is directed to dispose the suit in O.S.No.187 of 2013 within a period of three months from the date of amended copy of the written statement. No costs. Consequently, connected Miscellaneous Petition is closed.

21.12.2017

Index:Yes/No

kj

To

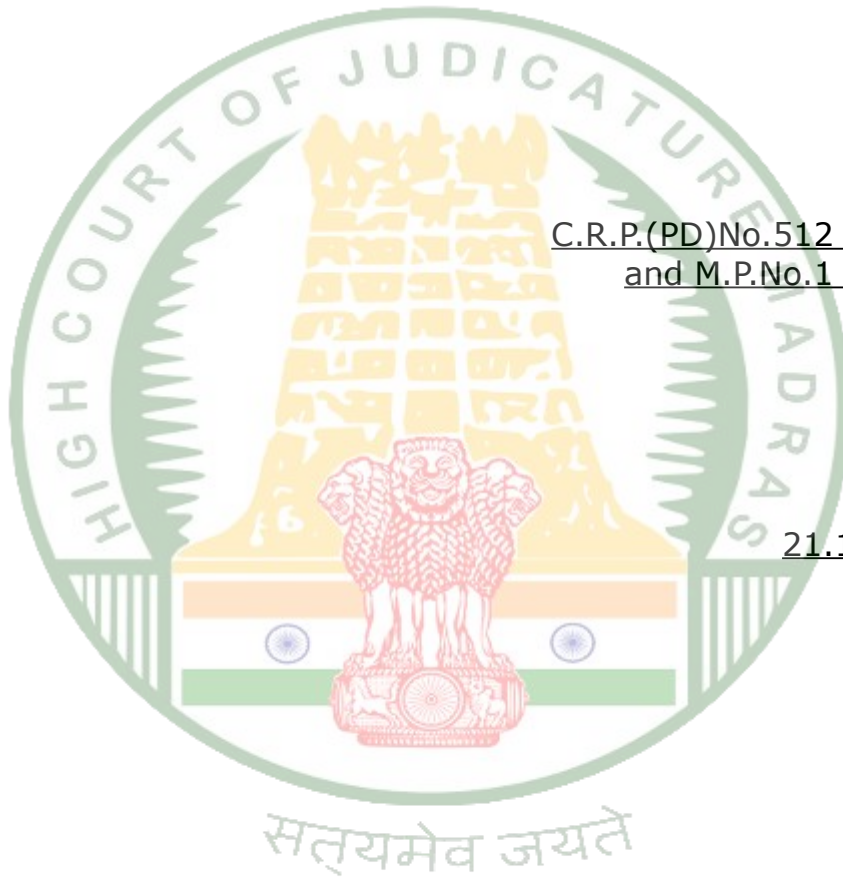
The Subordinate Judge, Mettur.



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V.M.VELUMANI, J.

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