

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2535 of 2013
& M.P.No.1 of 2013

1.Tamilselvi
2.Suganya

.. Petitioners

Vs.

Chinnammal

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order of Principal District Munsif Court at Tiruchengode, dated 06.04.2013 in I.A.No.599 of 2012 in O.S.No.1143 of 2004.

For Petitioners : Mr.P.Valliappan

ORDER

The Civil Revision Petition has been filed against the fair and decretal order of Principal District Munsif Court at Tiruchengode, dated 06.04.2013 in I.A.No.599 of 2012 in O.S.No.1143 of 2004.

2. The petitioners are the defendants and the respondent is the plaintiff in O.S.No.1143 of 2004 on the file of District Munsif Court, Tiruchengode. The respondent filed the said suit for partition and separate possession of the suit property. The petitioners filed written statement on 20.08.2007 and are contesting the suit. The petitioners filed an application in I.A.No.599 of 2012 under Order VII Rule 11 CPC for rejection of plaint, on the ground that the respondent has not filed any documents including patta to substantiate their claim for partition and as per Section 15(2) of the Patta Pass Book Act, they have to produce the original patta.

3. The respondent filed counter affidavit and opposed the said application.

4. The learned Judge considering all the averments in the plaint, affidavit, counter affidavit, the Judgment reported in [2012(2) CTC 289] relied on by the learned counsel for the petitioner and G.O.Ms.No.458 dated 18.08.1999, Revenue Department, dismissed the application.

5. Against the said order of dismissal dated 06.04.2013, the present Civil Revision Petition is filed by the petitioners.

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

7. The contention of the learned counsel for the petitioners is that the suit is liable to be rejected on the ground that the respondent has not filed patta and other documents to substantiate her case.

8. As per Order VII Rule 11 CPC, a plaint can be rejected only if the defendants are able to prove before the Court that as per the ingredients of Order VII Rule 11 CPC, the plaint is liable to be rejected. While, considering the application for rejection of plaint, the Court has to consider the averments made in the plaint only in entirety and documents filed along with the plaint by the plaintiff. The contention of the defendants in the written statement, documents and averments in the affidavit filed for rejection of plaint

are not relevant to decide the issue. In the present case, the petitioners relied on the decision of this Court reported in **[2012(2) CTC 289] Rajammal -vs- The Inspector General (Registration) and others** and sought for rejection of plaint on the ground that the respondent has not filed certified copy of the patta and failed to comply with the provisions of Section 15(2) of Patta Pass Book Act. The Government by G.O.Ms.No.458 dated 18.08.1999 extended the implementation of Patta Pass Book Act to the area in question except Sections 5, 9, 15 and 23 of the Patta Pass Book Act. In view of the fact that the Section 15 is not applicable to the area in question, the contention of the petitioners is without any merits.

9. The learned Judge considered all the above facts in proper perspective and dismissed the application, by giving cogent and valid reasons. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 06.04.2013.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.11.2017

Index : Yes/No
Speaking/Non Speaking Order

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To

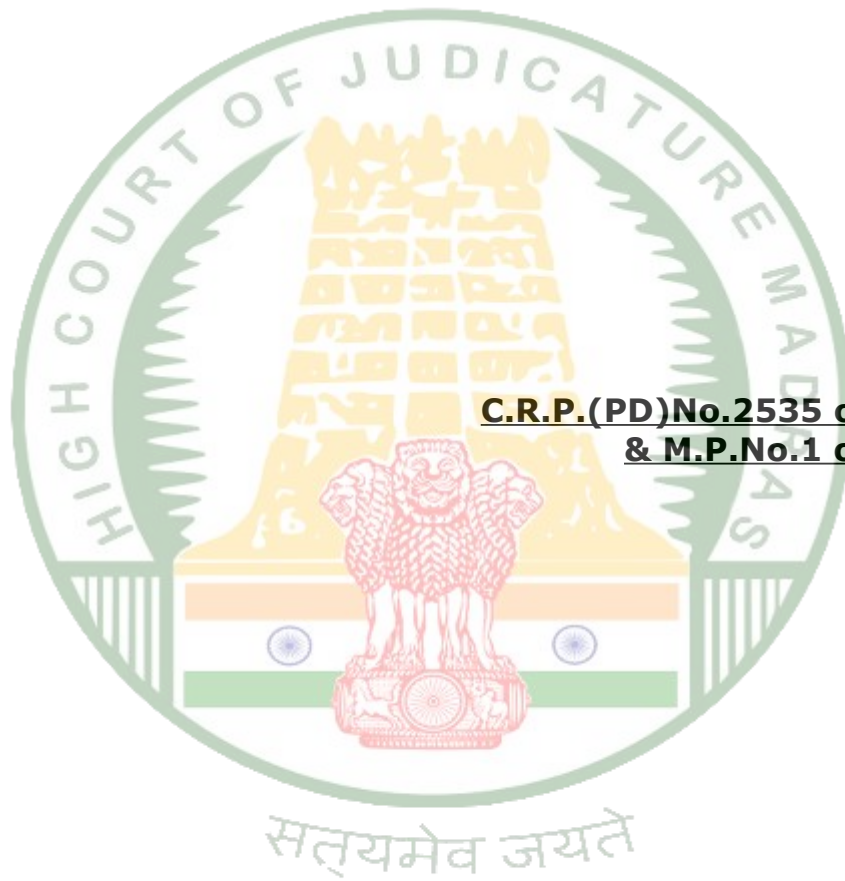
The District Munsif Court,
Tiruchengode.



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V.M.VELUMANI, J.

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