

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

**C.R.P.(PD) No.66 of 2016
and
C.M.P.No.348 of 2016**

Veeramani .. Petitioner/4th Defendant

Vs.

1. Krishnaveni .. 1st Respondent/Plaintiff
2. Mayavan .. 2nd Respondent/1st Defendant

(2nd respondent is given up
as unnecessary party)

This Civil revision is filed under Article 227 of the Constitution of India to set aside the fair and decreetal orders, dated 27.11.2014, passed by the learned II Additional District Munsif, Ulundurpet in I.A.No.1165 of 2014 in O.S.No.351 of 2007.

For Petitioner : Mr.R.Meenal
For Respondent No.1 : Mr.C.Munusamy

ORDER

The facts of this case is as follows:

According to the petitioner, the first respondent has filed a suit in O.S.No.351 of 2007 against the 2nd respondent, petitioner and two others before the II Additional District Munsif Court, Ulundurpet for partition of 1/4th share in the suit property. Petitioner/4th defendant has filed written statement in the aforesaid suit. Petitioner filed an application in I.A.No.1165 of 2004 under Order XXVI Rule 9 of C.P.C. along with documents namely, Ex.P8, dated 7.1.1998 and Ex.P9 dated 9.2.1998 to be sent to forensic Science department to get expert opinion on the signatures available in the aforesaid document. The said application was dismissed by the trial court. Hence, the above Civil revision petition has been filed.

2 According to the learned counsel for the petitioner, the Court below has not considered the fact that no prejudice would be caused to the respondent/plaintiff if the said application is allowed.

3 Per contra, the learned counsel for the respondent would submit that the suit was taken up for trial and the plaintiff side

evidence has been concluded. Therefore, the Court below has rightly dismissed the application. Thereafter, the revision petitioner/4th defendant has filed the present Civil Revision petition before this Court with an intention to drag on the proceedings. Hence, there is no warrant to interfere with the order passed by the trial Court.

4 Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials on record.

5 On perusal of the impugned order passed by the trial Court, trial Court has considered the grievance of the petitioner by holding that the petitioner has not impleaded the defendants 2 and 3 as party to the present application and the documents which are relied on by the petitioner are not document prior to 1998. Therefore, the claim of the petition has been rejected.

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6 As rightly held by the Court below that the petitioner has not impleaded the defendants 2 and 3 as party in the present Civil revision petition. Further, in the suit filed by the first respondent/

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plaintiff, if any denial on the part of the defendant/revision petitioner, the burden of proof lies on the plaintiff to prove the case by way of oral and documentary evidence in the said suit. Therefore, there is no warrant to interfere with the order passed by the Court below.

7 Hence, the Civil revision fails and accordingly dismissed. No costs. C.M.P.No.348 of 2016 is closed.

8 At this stage, counsel for the parties seeks direction to the Court below to dispose of the suit within time frame by this Court. Therefore, the trial Court is directed to dispose of the suit within a period of 6 months from the date of receipt of copy of this order. Both the parties undertakes that they will extend their cooperation to the court below to dispose of the suit within the time specified hereinabove.

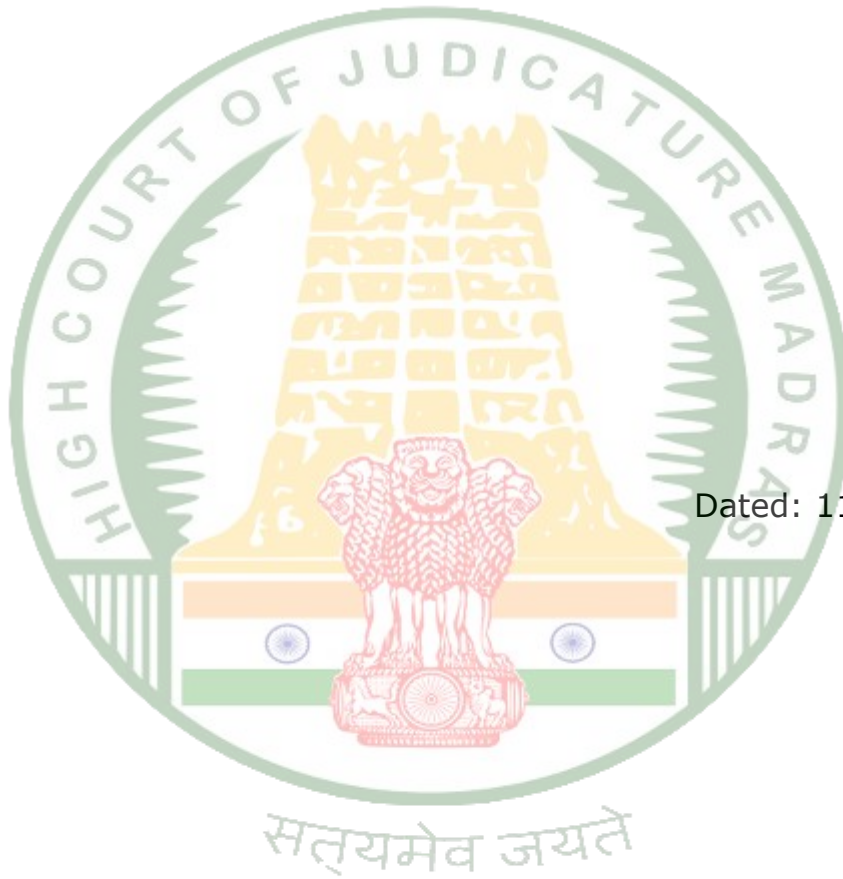
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Speaking/Non Speaking order
Index : Yes / No

Internet : Yes / No
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