

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

CORAM

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.32 of 2012
& M.P.No.1 of 2012

Pappu

.. Petitioner

Vs.

Palanisamy

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.08.2011 made in I.A.No.51 of 2010 in H.M.O.P.No.64 of 2010 on the file of the Subordinate Judge, Namakkal.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Not ready in notice

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 18.08.2011 made in I.A.No.51 of 2010 in H.M.O.P.No.64 of 2010 on the file of the Subordinate Judge, Namakkal.

2.The petitioner / wife is the respondent and respondent / husband is the petitioner in H.M.O.P.No.64 of 2010. The respondent

filed the said H.M.O.P against the petitioner for divorce. The petitioner filed counter statement on 13.10.2010 and is contesting the said H.M.O.P. The petitioner also filed I.A.No.51 of 2010, claiming interim maintenance of a sum of Rs.3000/- per month and Rs.10,000/- as litigation expenses. According to the petitioner, the respondent treated her cruelly and abused her in filthy language and he is not taking care of her. The petitioner is suffering from various illness and finds it very difficult to maintain herself. Due to her old age, she is unable to earn any income to maintain herself.

3. The respondent filed counter affidavit and denied all the allegations made against him. The respondent submitted that the petitioner treated him with cruelty. Therefore, he left the ancestral house in the hands of petitioner and is living in the rented house. The petitioner is residing in the respondent's ancestral house. The respondent settled 2 acres of land in Pudhukombai Village on the petitioner in the year 1986. The petitioner sold the said property for a sum of Rs.2,00,000/- and has lent the said amount to various persons and is getting interest. The respondent also purchased 3.26 acres of land in Survey No.86/2 in Sarkar Palayapalayam Village, by the sale deed dated 24.12.2003 in the name of the petitioner. The said property is in possession and enjoyment of the petitioner. The petitioner is

leasing out the tamarind tress in the said land and getting Rs.50,000/- per year out of the same. The value of the said property as on 30.07.2010 is Rs.10,00,000/-.

4.Before the learned Judge, the petitioner examined herself as PW1 and her daughter one Lakshmi as PW2. She did not mark any documents. The respondent examined himself as RW1 and marked 2 documents viz., settlement deed dated 15.02.1982 and sale deed dated 24.12.2003 as Exs.B1 and B2.

5.The learned Judge, considering the averments in the affidavit, counter affidavit, oral and documentary evidence let in by the parties, dismissed the application.

6.Against the said order of dismissal dated 18.08.2011 made in I.A.No.51 of 2010 in H.M.O.P.No.64 of 2010, the petitioner has come out with the present Civil Revision Petition.

7.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

8.The learned counsel appearing for the petitioner contended that the learned Judge erred in holding that petitioner did not state that respondent is earning income, where as the petitioner has stated in the petition and also had deposed that respondent is earning income. The learned counsel for the petitioner has filed additional typed set of papers, contending the deposition of the petitioner.

9.From the averments made in the affidavit filed in support of the above application and from the deposition of petitioner as PW1, it is seen that the petitioner has not stated anything about the income of the respondent. In view of the same, the contention of the learned counsel for the petitioner is without merits. The respondent, by oral and documentary evidence had substantiated his contention that he settled 2 acres of land on the petitioner and she sold the said property. The respondent has also substantiated that he purchased 3.26 acres of land in the name of the petitioner. The petitioner has not denied that the respondent purchased the 3.26 acres of land in her name. The learned Judge, considering all the above facts, dismissed the application by giving cogent and valid reason. In the circumstances, there is no illegality or irregularity, warranting interference by this Court, with the order of the learned Judge dated 18.08.2011.

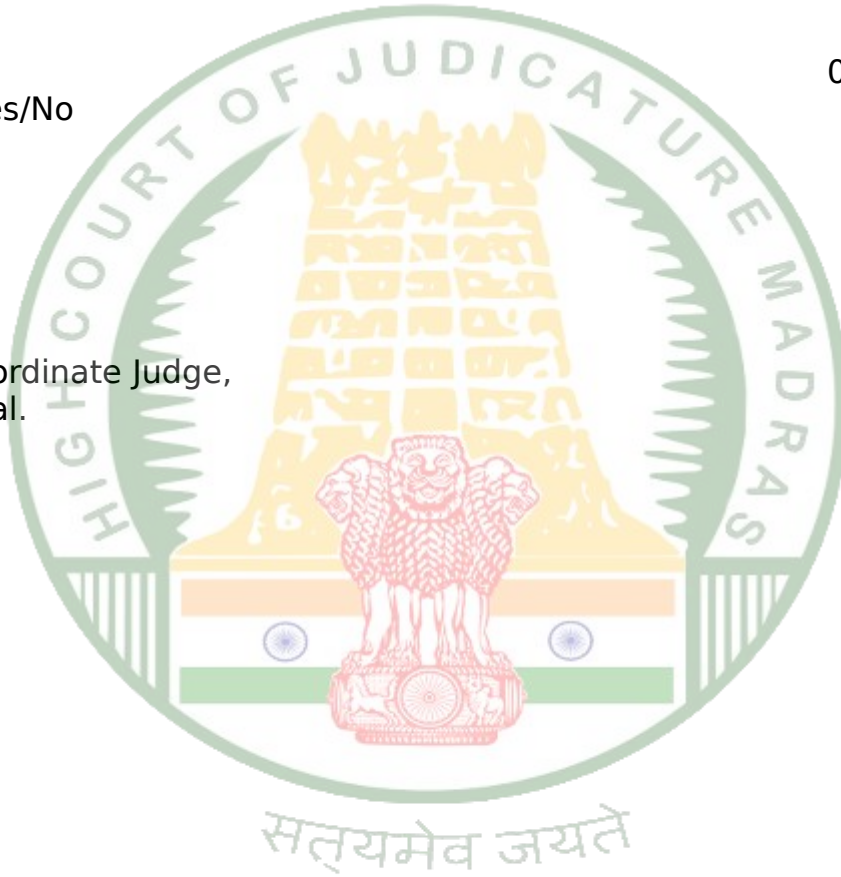
10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2017

Index: Yes/No
gsa

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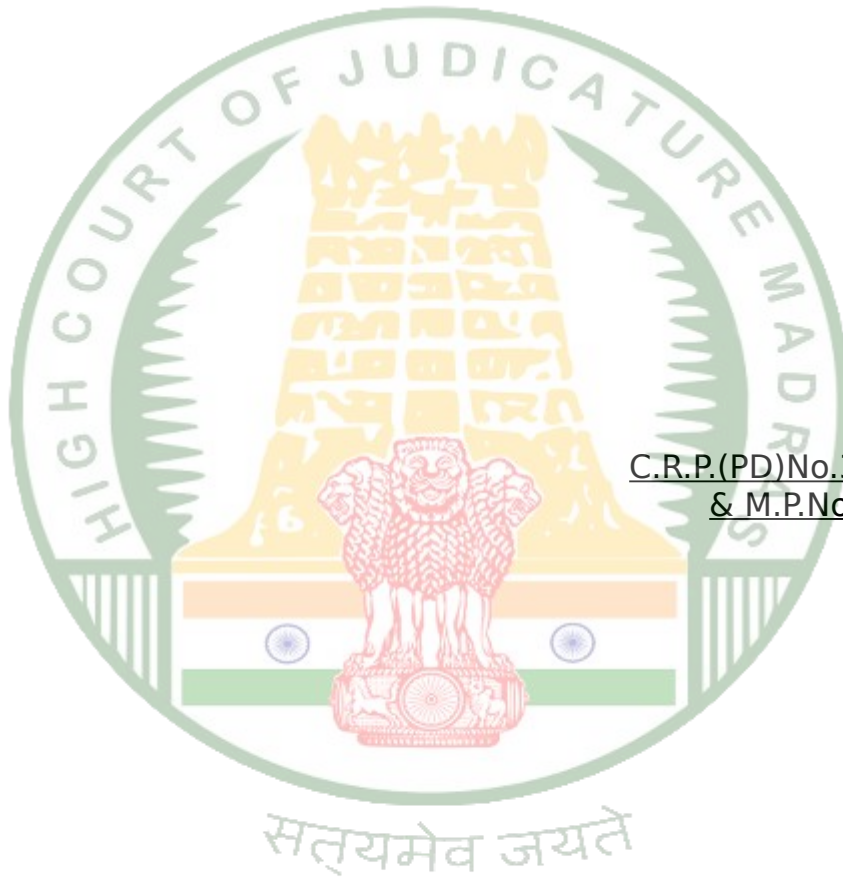
The Subordinate Judge,
Namakkal.



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V.M.VELUMANI,J.

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