

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3821 of 2012
& M.P.No.1 of 2012 and C.M.P.No.11288 of 2017

P.D.Janakiraman Pillai

.. Petitioner

Vs.

1.Mohammed Kaleemullah
2.Irfana Nausheen
3.S.Radhakrishnan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 23.01.2012 made in I.A.No.489 of 2010 in O.S.No.235 of 2003 on the file of the District Munsif Court, Poonamallee.

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For Petitioner : Mrs.Revathi G.Mohan

For R1 and R2 : Mr.N.Ilangovan

For R3 : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 23.01.2012 made in I.A.No.489 of 2010 in O.S.No.235 of 2003 on the file of the District Munsif Court, Poonamallee.

2. The petitioner is first defendant, the respondents 1 & 2 are the plaintiffs and third respondent is the second defendant in O.S.No.235 of 2003 on the file of the District Munsif Court, Poonamallee. The respondents 1 & 2 filed suit for permanent injunction. The petitioner filed written statement on 11.01.2006 and is contesting the suit. Pending suit, the respondents 1 & 2 filed I.A.No.489 of 2010 under Order VI Rule 17 of C.P.C., for amending the plaint to include the relief of declaration that the respondents 1 & 2 are the absolute owners of the suit property, they have acquired the same by the registered sale deed dated 13.10.2000 and from the date of purchase, they are in possession and enjoyment of the suit property.

3. The petitioner filed counter affidavit denying the averments made in the said application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and materials on record, allowed the application.

5. Against the order dated 23.01.2012 made in I.A.No.489 of 2010, the present civil revision petition is filed by the petitioner/first defendant.

6. When the civil revision petition is taken up for hearing, the learned counsel appearing for the petitioner submitted that he may be permitted to withdraw the civil revision petition by recording the joint memo of compromise signed by both the parties consenting for appointment of Advocate Commissioner with the help of surveyor to demarcate the property in question. She has made an endorsement to that effect.

7. The learned counsel appearing for the respondents 1 & 2 also submitted that the respondents 1 & 2 signed the joint memo of compromise consenting for appointment of Advocate Commissioner

with the help of surveyor to demarcate the suit property and he also made an endorsement to that effect.

8. Recording the endorsement made by the learned counsel for the petitioner as well as the respondents 1 & 2, the Civil Revision Petition is disposed of directing the learned District Munsif, Poonamallee, to appoint Advocate Commissioner within two weeks from the date of receipt of a copy of this order and direct the Advocate Commissioner to inspect the suit property after issuing notice to both the parties and their respective counsel as per the joint memo of compromise filed before this Court, within one month from the date of receipt of warrant of commission and file a report within two weeks from the date of inspection. As the suit is of the year 2003, the learned Judge is directed to dispose the suit within three months from the date of completion of the above said exercise. The order of the learned Judge dated 23.01.2012 made in I.A.No.489 of 2010 amending the plaint is confirmed. The joint memo of compromise shall form part of the order. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.08.2017

Index : Yes/No
Speaking/Non-Speaking Order
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To
The District Munsif Court, Poonamallee.



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Today, the above Civil Revision Petition is listed under the caption 'for being mentioned' at the instance of the learned counsel for the petitioner.

2.This Court, in the last paragraph of the order dated 04.08.2017 made in C.R.P(PD).No.3821 of 2012 has directed the learned Judge (District Munsif, Poonamallee) to dispose of the suit within a period of three months from the date of completion of the direction given by this Court.

3.The learned counsel for the petitioner and respondent submitted that O.S.No.235 of 2003 pending on the file of the District Munsif Court, Poonamallee is transferred to Subordinate Court, Poonamallee and renumbered as O.S.No.153 of 2012.

4.This fact was not brought to the notice of this Court at the time of hearing of the Civil Revision Petition and in the joint memo

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of compromise filed by the parties. In view of the said submission, 10th line of the last paragraph of the order dated 04.08.2017 made in C.R.P(PD).No.3821 of 2012 is modified as follows:

".. .. As the suit is of the year 2003, the learned Subordinate Judge, Poonamallee, is directed to dispose of the suit within a period of three months from the date of completion of the above said exercise. "

5.The Registry is directed to make necessary corrections in the order dated 04.08.2017 made in the above C.R.P(PD).No.3821 of 2012 and issue fresh order copy.

6.In all other aspects, the order of the Court dated 04.08.2017 shall remain unaltered.

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27.02.2018

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Note: Issue order copy by 28.02.2018

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