

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)Nos.4883 & 4884 of 2012  
and M.P.No.1 of 2012

1. Urumanan
2. Marappan
3. Kolandaivel

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Petitioners  
in both the C.R.Ps.

Vs.

- 1.Marappa Gounder
- 2.Rakkianna Gounder
- 3.Marappan
- 4.Mani
- 5.Thasildhar  
Paramathi Velur Taluk  
Padamudipalayam.
- 6.District Collector  
Namakkal.

सत्यमेव जयते

Respondents  
in both the C.R.Ps.

Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decretal order dated 17.09.2012 made in I.A.Nos.523 & 524 of 2012 in O.S.No.11 of 2008 on the file of the District Munsif-cum-Judicial Magistrate Court, Paramathi.

For Petitioners : Mr.P.Valliappan

For Respondents : No appearance

**COMMON ORDER**

Civil Revision Petitions filed against the fair and decretal order dated 17.09.2012 made in I.A.Nos.523 & 524 of 2012 in O.S.No.11 of 2008 on the file of the District Munsif-cum-Judicial Magistrate Court, Paramathi.

2. The petitioners are the defendants 1 to 3, respondents 1 to 4 are the plaintiffs and the respondents 5 & 6 are the defendants 5 and 6 in O.S.No.11 of 2008 on the file of the District Munsif-cum-Judicial Magistrate Court, Paramathi. The respondents 1 to 4 filed suit for declaration that the order dated 23.10.1997 passed by the fifth respondent transferring the patta in respect of the sub-divisions in S.No.177 as null and void and for mandatory injunction. The petitioners filed written statement on 09.06.2008 and are contesting the suit. The trial commenced. Both the parties have let in evidence and when the suit was posted for arguments, the second plaintiff viz., Rakkianna gounder died. The case was reopened and the legal heirs of the second plaintiff were impleaded. The petitioners were

permitted to file additional written statement, after the legal heirs of the second plaintiff were brought on record. The petitioners did not file additional written statement within time limit granted by the Court. The suit was posted for arguments. The petitioners filed two applications in I.A.Nos.523 and 524 of 2012 to reopen the suit and permit the petitioners to file additional written statement. Along with the applications, the petitioners filed additional written statement.

3. According to the petitioners, they made averments in the written statement only on legal aspects and reserved their right to file additional written statement. The Court did not accept the legal averments made on behalf of the petitioners and therefore, it is necessary to file additional written statement. Second petitioner is working as a teacher and is residing far away from his native place. Therefore, he could not give instruction to his counsel immediately to file a petition seeking permission to file additional written statement.

4. The respondents filed counter affidavit opposing the said applications on the ground that the petitioners were granted permission to file additional written statement only in view of the

fact that the legal heirs of the second plaintiff were brought on record and not as alleged by the petitioners. By filing additional written statement, the petitioners are introducing a new case destructive of original written statement filed by them only with a view to confuse the Court.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials on record, dismissed the applications.

6. Against the order of dismissal dated 17.09.2012 made in I.A.Nos.523 and 524 of 2012, the present civil revision petitions are filed by the petitioners.

7. Though notice served on the respondents and their names have been printed in the cause list, there is no representation on behalf of them either in person or through counsel.

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

9. From the typed set of papers filed along with these civil

revision petitions, it is seen that the petitioners are seeking permission to file additional written statement on the ground that they could not file additional written statement within the time limit granted by the Court. According to the petitioners, the legal averments made by them in the written statement are not accepted by the Court and they were given permission to file additional written statement. These contentions are contrary to the facts. The petitioners were granted permission to file additional written statement only in view of the fact that the second plaintiff died and his legal heirs were brought on record. Further, the respondents 1 to 4 contended that in the additional written statement, the petitioners are introducing a new case, which is destructive of the contents in the original written statement. The learned Judge considering the contentions of the respondents 1 to 4, have gone through the original written statement and additional written statement filed by the petitioners, accepted the contentions of the respondents 1 to 4.

10. Further, it is seen from the impugned order of the learned Judge that the petitioners have filed number of applications with a view to drag on the proceedings. The second petitioner has stated that he is working as a teacher, residing far away from his native

place and therefore, they could not file additional written statement. There is no explanation in the affidavit as to why the petitioners 1 and 3 did not meet their advocate to give instruction to file additional written statement. The petitioners have not come out with the true facts with regard to permission granted to file additional written statement and not explained as to why they did not file additional written statement immediately.

11. The learned Judge has considered all these aspects in proper perspective and dismissed the applications by giving cogent and valid reason. There is no illegality or irregularity in the order of the learned Judge dated 17.09.2012 warranting interference by this Court.

12. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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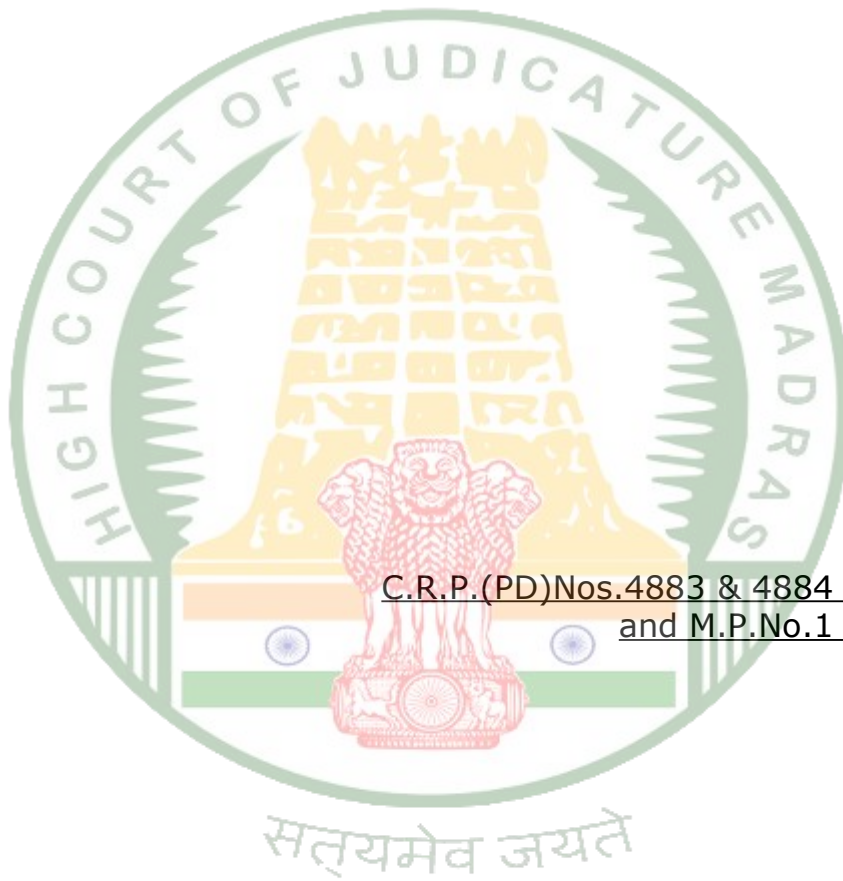
Index : Yes/No  
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To

The District Munsif-cum-Judicial Magistrate Court  
Paramathi.

**V.M.VELUMANI, J.**

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