

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.716 of 2012
& M.P.No.1 of 2012

1.Eggooran @ Vedi Gounder
2.Thulasiammal

.. Petitioners

Vs.

Sivan

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 19.01.2012 made in I.A.No.6 of 2012 in O.S.No.393 of 1995 on the file of the District Munsif cum Judicial Magistrate Court, Uthangarai.

For Petitioners : Mr.P.Mani

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 19.01.2012 made in I.A.No.6 of 2012 in

O.S.No.393 of 1995 on the file of the District Munsif cum Judicial Magistrate Court, Uthangarai.

2. The petitioners are defendants 4 & 5 and respondent is the plaintiff in O.S.No.393 of 1995 on the file of the District Munsif cum Judicial Magistrate Court, Uthangarai. The respondent filed suit for partition, separate possession and permanent injunction against the petitioners and other defendants. First petitioner filed written statement and the same was adopted by the second petitioner and they are contesting the suit. The trial commenced. Respondent let in evidence and closed his side. When the suit was posted for evidence on behalf of the defendants, petitioners filed I.A.No.6 of 2012 to condone the delay in filing the additional document.

3. According to the petitioners, some of the documents were destroyed in the fire accident occurred 10 years back before filing of the application. In the year 2012, the petitioners got xerox copy of the release deed dated 22.05.1975 and original document from para-4 to 7. First three pages were destroyed in the fire accident. The petitioners also filed documents 3 to 12 and sought to be marked.

4. Respondent filed counter affidavit opposing the marking of the documents on the ground that document No.1/xerox copy of the document, document No.2/part of the document cannot be marked and document Nos.3 to 12 are subsequent to the filing of the suit.

5. The learned Judge considering all the materials on record, rejected the marking of the documents 1 and 2 on the ground that document No.1 is a xerox copy and document No.2 is only a part of the document. As far as document Nos.3 to 12 are concerned, the learned Judge allowed marking of the documents in order to give an opportunity to the petitioners.

6. The petitioners have come out with the present civil revision petition challenging the portion of the order of the learned Judge rejecting marking of the documents 1 and 2.

7. The contention of the learned counsel for the petitioners is that the learned Judge ought to have given an opportunity to the petitioners to mark the documents 1 and 2, as the petitioners have given valid reasons for marking of the xerox copy of the document No.1 and part of the document No.2. The reason given by the

learned Judge rejecting the documents is not correct.

8. Though notice served on the respondent and his name is printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

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

10. The petitioners filed the present application to condone the delay in filing 12 additional documents in the suit. Document No.1 is a xerox copy and document No.2 is only a part of the document. Petitioners have stated that the documents are destroyed in the fire accident. The learned Judge has rightly held that the petitioners could have obtained certified copy and filed the same before the Court. The learned Judge rightly rejected the marking of documents 1 and 2 and allowed marking of documents 3 to 12, even though they are subsequent to filing of the suit. The respondents are disputing the genuineness of the documents in order to give opportunity to the petitioners to prove their case.

11. Considering all the materials on record in entirety and the

impugned order of the learned Judge, I find no irregularity or illegality in the order of the learned Judge dated 19.01.2012 warranting interference by this Court.

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

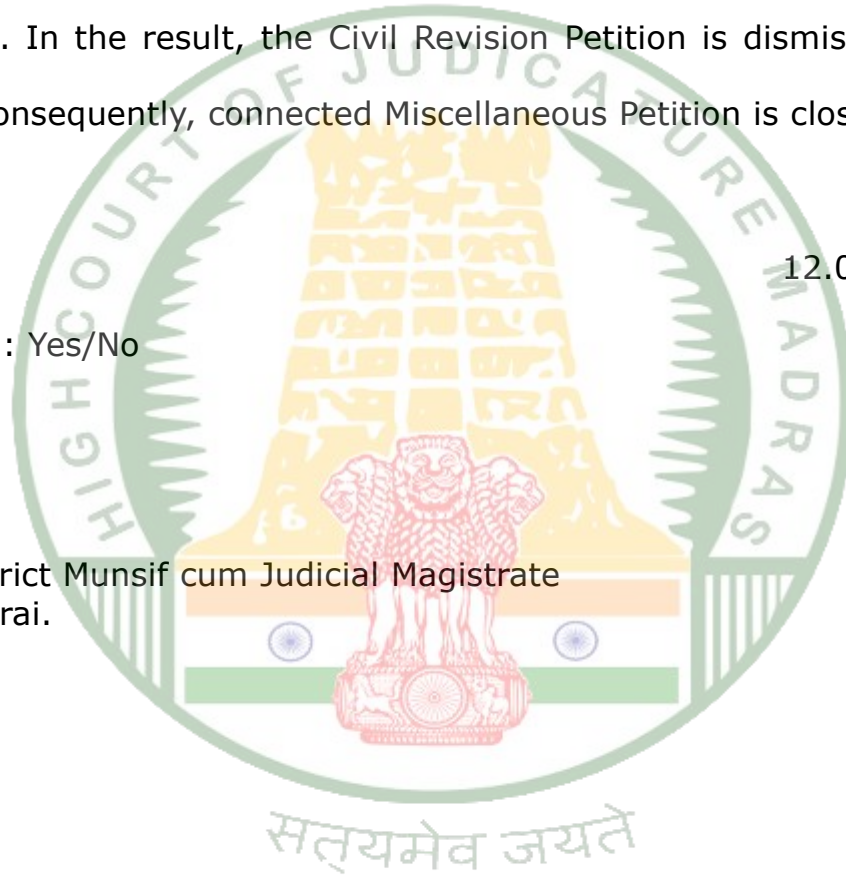
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Index : Yes/No

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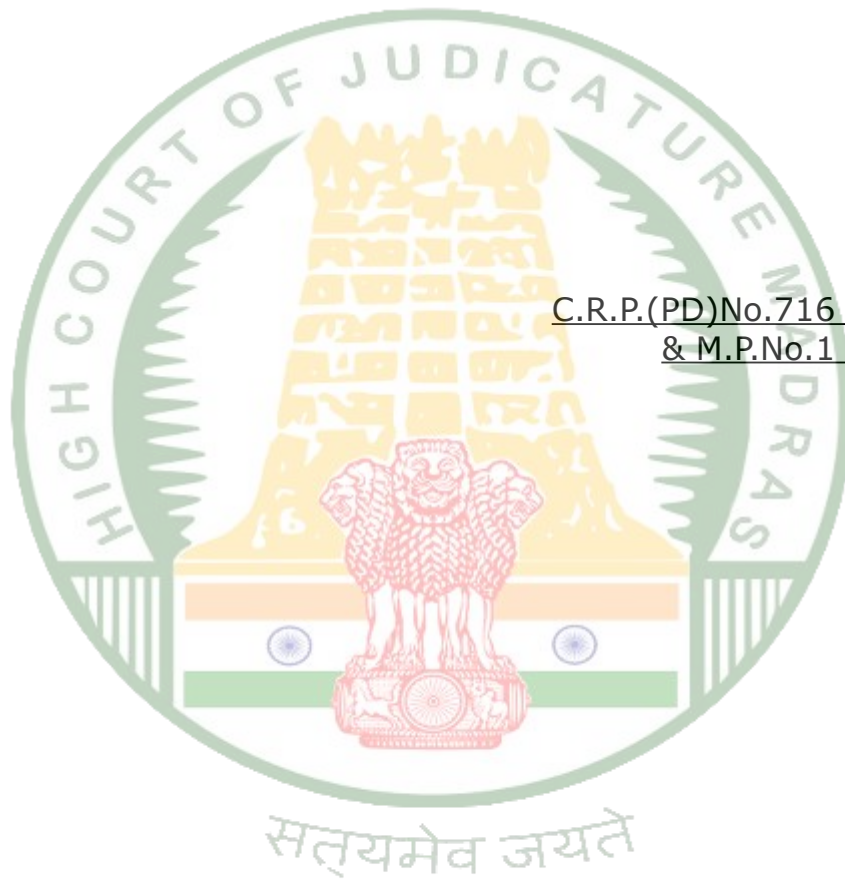
The District Munsif cum Judicial Magistrate
Uthangarai.



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V.M.VELUMANI, J.

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