

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (PD) No.1052 of 2018
& C.M.P.No.5567 of 2018

Jayashree ... Petitioner/plaintiff

Vs.

K.Prabhuraj ... Respondent/defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set-aside the order, dated 19.12.2017, made in CMP.No.1021 of 2017 in A.S.No.283 of 2016 on the file of III Additional City Civil Court, Chennai.

For Petitioner : Mr.
V.S.MannarsamyFor Respondent : Ms.
R.T.Syamala**ORDER**

सत्यमेव जयते

This Civil Revision petition has been filed by the petitioner/plaintiff, aggrieved by the order dated 19.12.2017 passed by the III Additional City Civil Court, Chennai, in C.M.P.No.1021 of 2017 in A.S.No.283 of 2016.

2. Heard the learned counsel appearing for both sides.

3. The appeal in A.S.No.283 of 2016 came up for hearing before the First Appellate Court on various dates from 17.03.2017 to 20.07.2017. The petitioner's counsel argued the case on 03.08.2017 and the respondent's counsel argued the case on 12.09.2017 and the case came to be posted to 12.10.2017, for pronouncing judgment. At this stage, the Revision petitioner filed a petition, before the first Appellate Court, on 10.10.2017, seeking to reopen the appeal for advancing further arguments, on any day that may be fixed by the Court. The ground stated by the petitioner for reopening the appeal was that, if the settlement deed is sent to Forensic department for comparison of signature with the admitted signatures of her father, she has a fair chance of succeeding in the appeal and therefore, petitioner has taken back the appeal papers from her erstwhile counsel and handed over the same to her present counsel to get along with the appeal. The said petition was dismissed by the appellate court, on 19.12.2017, on the ground that there is no need to reopen the appeal for the purpose of hearing further arguments from the new counsel. Aggrieved against the said order, this Civil Revision Petition came to be filed by the petitioner.

4. Reiterating the said facts, the learned counsel for the petitioner submitted that one more opportunity may be given to the petitioner to advance arguments, in the appeal.

5. Per contra, the learned counsel for the respondent / defendant submitted that the petitions before the appellate court as well as before this Court came to be filed by the petitioner only with an intention to harass the respondent and to protract the proceedings for some ulterior motive. Further, the learned counsel submitted that there is no merits in the petition filed before the appellate court and therefore, the Court below has rightly dismissed the same and therefore, pleads that the same may be sustained.

6. This Court has considered the submissions made by the learned counsel appearing for both sides and perused the materials available on record.

7. A perusal of the plaint filed by the plaintiff before the trial court

shows that the plaintiff has challenged the settlement deed on the ground that it is forcibly obtained by the respondent from her father and it was not acted upon and the physical possession was not handed over and no mutation was taken place and the plaintiff is still in possession of the property. It is worthwhile to mention here that, at no place in the plaint, the petitioner has denied the signature of her father in the settlement deed.

8. The first appellate court has discussed the issues raised by the petitioner, in detail, and has dismissed the petition seeking reopening of the case. Further, the reasons stated by the petitioner, for reopening the case, are very vague as vagueness could be. This Court does not find any infirmity or illegality to interfere with the said order passed by the Court below.

9. At this juncture, the learned counsel appearing for both sides submitted that now the appeal is reserved for judgment and posted under the caption "For pronouncing judgment" on 10.04.2018.

10. In view of the foregoing reasons, this Court is of the opinion that the case has to be proceeded with, without any further delay. In order to give an opportunity, the petitioner herein is permitted to file notes of written

arguments before the appellate court, on 09.04.2018, at 10.30 a.m. In case the petitioner files any notes of arguments on 09.04.2018 at 10.30 a.m the appellate court shall receive only the notes of written arguments without reopening the appeal suit and consider the same in accordance with law and pronounce the judgment, on 10.04.2018 in accordance with law.

11. In the result, this Civil Revision Petition is dismissed, however, with the above directions. No costs. Consequently, the connected Civil miscellaneous petition is closed.

04.04.2018

Index:Yes/No

Speaking order / Non speaking order

kv

Note to office.: Issue order copy on or before 05.04.2018

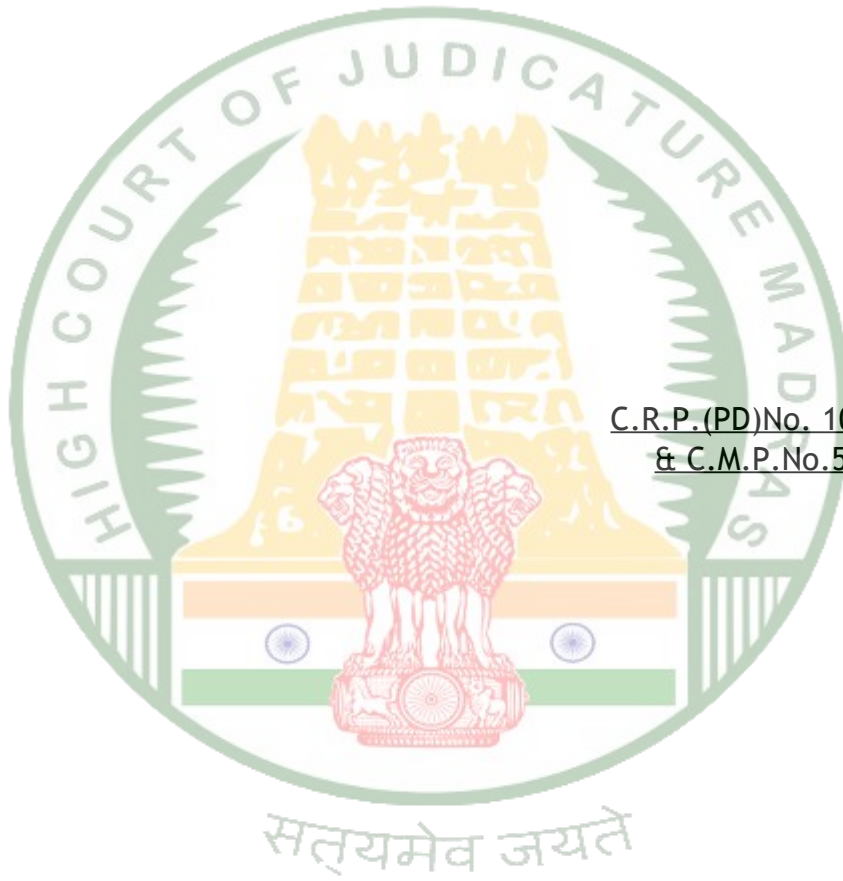
To

III Additional City Civil Judge, Chennai.

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P.VELMURUGAN, J.,

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