

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP (PD) No.1084, 1113 to 1115 of 2018
and
CMP.No.5669 of 2018

B.Omprakash Varma Petitioner

-Vs-

1.Ragu Baskar

2.Mrs.Vijayalaksmi @ Rani

3.Mrs.K.P.Choodamani

4.Ms.R.S.Thembavani

5.R.S.Kameswaran

6.R.S.Yuvaneswaran

7.Ms.R.S.Panchami

8.Ms.Senghilakshmi

... Respondents

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India against the Common and decretal order dated 13.12.2017 passed in E.A.S.R.Nos.72359 to 72362 of 2017 in E.A.No.120 of 2015 in E.P.No.4502 of 2014 on the file of the X Assistant City Civil Court at Chennai.

For Petitioner : Mr.K.R.Mahesh

For R1 : Mr.T.Velumani

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COMMON ORDER

These Civil Revision Petitions are filed to set aside the Commo and decretal order dated 13.12.2017 passed in E.A.S.R.Nos.72359 to 72362 of 2017 in E.A.No.120 of 2015 in E.P.No.4502 of 2014 on the file of the X Assistant City Civil Court at Chennai.

2.According to the petitioner, in view of the urgency, the petitioner has filed applications in E.A.S.R.Nos.72359 to 72362 of 2017. The respondent filed the suit O.S.No.4646 of 2001 for injunction against the respondents 1 and 2 herein/decreed holders. In the aforesaid suit, the respondents 1 and 2 filed counter claim for partition of 1/3 share of the suit property. The aforesaid suit was decreed and dismissed. Challenging the aforesaid Judgment, the respondents 1 and 2 filed an appeal in A.S.No.81 of 2007 before the VII Additional City Civil Court, Chennai.

3.The aforesaid Judgment decree was reversed by the Appellate Court by holding that the respondents 1 and 2 are entitled to 1/3 share of the suit property. Pursuant to the order, the respondents 1 and 2 filed an application for final decree. Thereafter, the final decree was passed in I.A.No.5500 of 2009. The Court below has passed the final decree. In the aforesaid final decree proceedings, the petitioner filed an Execution Petition in E.P.No.4502 of 2014 for delivery of possession.

4.In the aforesaid execution petition, the respondents 1 and 2 filed an application in E.A.No.120 of 2015 to remove the obstruction against the petitioner. The said application was allowed. Challenging the aforesaid order, the petitioner has filed an appeal in CMA.No.55 of 2015 before the Additional City Civil Court, Chennai and the same was confirmed and as against the said order, the petitioner preferred CMSA.No.14 of 2017 before this Court. The aforesaid CMSA was allowed and remanded to the Execution Court for passing appropriate Order.

5.Pursuant to the said Judgment, the petitioner has filed an application in E.A.S.R.No.72359, 72360, 72361, 72362 of 2017 to

issue subpoena to the Tahsildar, to issue subpoena to the Advocate Commissioner, to issue subpoena to the School Authority, to issue subpoena to the Chennai Corporation Commissioner. The said application was dismissed. Challenging the said order, the petitioner has preferred the present Civil Revision petition before this Court.

6. According to the petitioner, the Court below has not appreciated the case of the petitioner and dismissed the application. The evidence of the concerned authorities is relevant to the case. Therefore, the order of the Court below is liable to be dismissed.

7. On a perusal of the materials available on record, it is seen that the petitioner has filed the aforesaid petition to issue subpoena to the concerned authorities to produce the records before the Court below to bring out the falsicity of the said documents.

8. The Court below without understanding the above said point, dismissed all the petitions by a common order, even without numbering the same, as not maintainable.

9. Under Rules 74 to 76 of the Civil Rules of Practice, the petitioner has to approach the authorities concerned for obtaining certified copy and the prayer should be only under Civil Rules of Practice to enable him to get the certified copy. Therefore, the common order of the Court below passed in E.A.S.R.Nos.72359 to 72362 of 2017 is in accordance with law and there is no error or illegality in the order passed by the Court below.

10. In fine, the order passed by the learned X Assistant Judge, City Civil Court, Chennai in E.A.S.R.Nos.72359 to 72362 of 2017 in E.A.No.120 of 2015 in E.P.No.4502 of 2014 dated 13.12.2017 is confirmed and the Civil Revision Petitions are dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

सत्यमेव जयते

16.03.2018

Speaking/Non-Speaking order

Index : Yes/No

Internet: Yes/No

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Note : Issue order copy by 21.06.2018

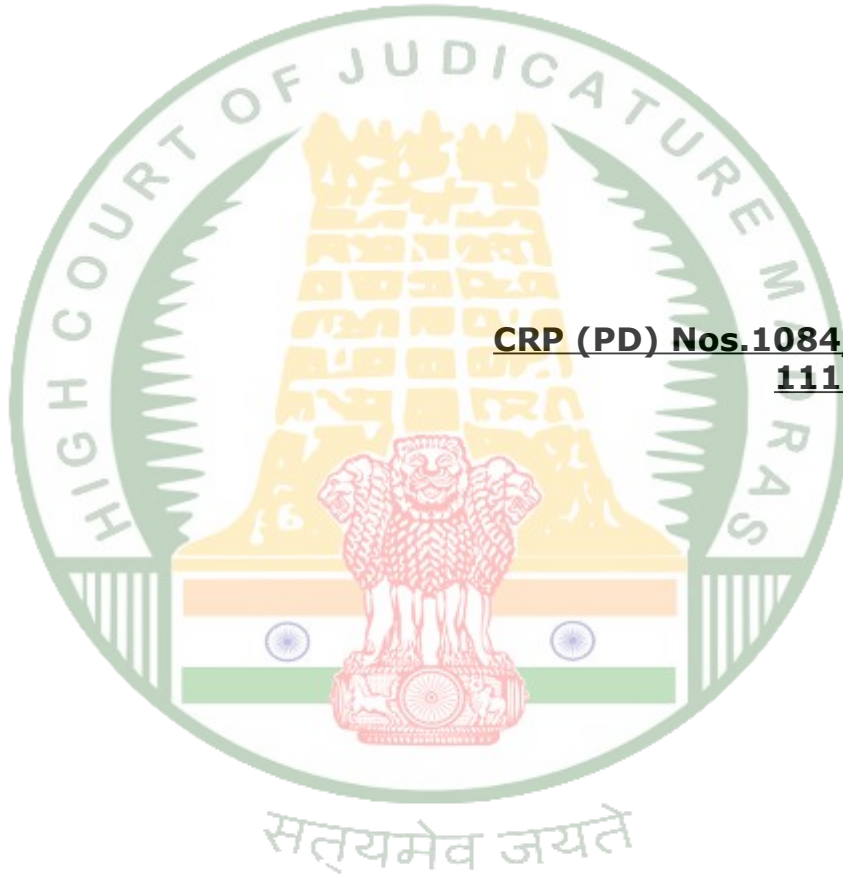
To

The X Assistant Judge,
City Civil Court,
Chennai.

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D. KRISHNAKUMAR J.,

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**CRP (PD) Nos.1084, 1113 to
1115 of 2018**

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