

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.105 and 106 of 2014
and M.P.No.1 of 2014

1.Sowndiram
2.Pulliyappagounder
3.Periyasamy
4.Sekar
5.Sengottaiyan
6.Tamil Selvi
7.Singaravelavan
8.Mohan

.. Petitioners in
both CRPs.

1.Jayammal
2.Selvam
3.Jayapal
4.Gunavathi

Alamelu (died)

5.Velaathal
6.Banumathi
7.Elamathi
8.Chitra

Sasiya (died)

9.Durairaj @ Duraisamy

.. Respondents in
both CRPs.

(Respondents 7 to 9 are already
set exparte before the trial Court,
hence notice may be dispensed with
in these CRPs.)

Prayer:- Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decretal order dated 16.09.2013 made in I.A.Nos.348 and 349 of 2013 in O.S.No.31 of 2010 on the file of the Principal District Court, Namakkal.

In both CRPs.

For Petitioners : Mr.M.Lokesh
for Mr.MA.P.Thangavel

For R1 to R6 : No appearance
R7 to R9 : Exparte

COMMON ORDER

The Civil Revision Petitions are filed against the fair and decretal order dated 16.09.2013 made in I.A.Nos.348 and 349 of 2013 in O.S.No.31 of 2010 on the file of the Principal District Court, Namakkal.

2. In both the Civil Revision Petitions, the issues are interlinked and the parties are one and the same and hence, they are disposed of by this common order.

3. The petitioners are the defendants 1, 6 to 12, respondents 1 to 6 are the plaintiffs and the respondents 7 to 9 are the defendants 2, 3 & 5 in O.S.No.31 of 2010 on the file of the Principal District Court,

Namakkal. The respondents 1 to 6 filed the said suit for partition against the petitioners and other defendants. The petitioners filed written statement and are contesting the suit. The parties have let in evidence and closed their side. When the suit was posted for arguments on 12.06.2013, the respondents 1 to 6 filed I.A.No.348 of 2013 to reopen the case and I.A.No.349 of 2013 under Order XVIII Rule 17 C.P.C. to recall D.W.1/7th defendant/third respondent herein, for further cross-examination.

4. According to the respondents 1 to 6, some important questions were not put to D.W.1, when he was cross-examined.

5. The third petitioner filed counter affidavit and contended that the respondents 1 to 6 have come out with the present applications only to drag on the proceedings. They have not stated that on what aspect, the questions were not put to D.W.1 and filed the applications only to harass the petitioners and prayed for dismissal of the applications.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, allowed both the applications.

7. Against the said order dated 16.09.2013 made in I.A.Nos.348 and 349 of 2013 in O.S.No.31 of 2010, the present Civil Revision Petitions are filed by the petitioners.

8. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice were served on the respondents 1 to 6 and their names are printed in the cause list, there is no representation on behalf of them either in person or through counsel. Respondents 7 to 9 remained exparte in the trial Court.

9. The grievance of the petitioners is that the respondents 1 to 6 have come out with the present applications only to drag on the proceedings and to fill in lacuna. On earlier occasion, the suit was dismissed for default on 01.02.2012 and subsequently, the suit was restored to file. The respondents 1 to 6 filed the present applications only to harass the petitioners and other defendants. These contentions are without merits. The respondents 1 to 6 filed the suit for partition and before the arguments commenced and concluded, they have come out with the present applications.

10. Considering the fact that the suit is for partition, the order of the learned Judge allowing both the applications to give an opportunity to the respondents 1 to 6 does not suffer any irregularity. Further the learned Judge has compensated the petitioners by awarding costs. In the circumstances, there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 16.09.2013.

11. In the result, both the Civil Revision Petitions are dismissed. As the suit is of the year 2010, the learned Judge is directed to dispose of the suit in O.S.No.31 of 2010 as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

22.02.2018

Index:Yes/No

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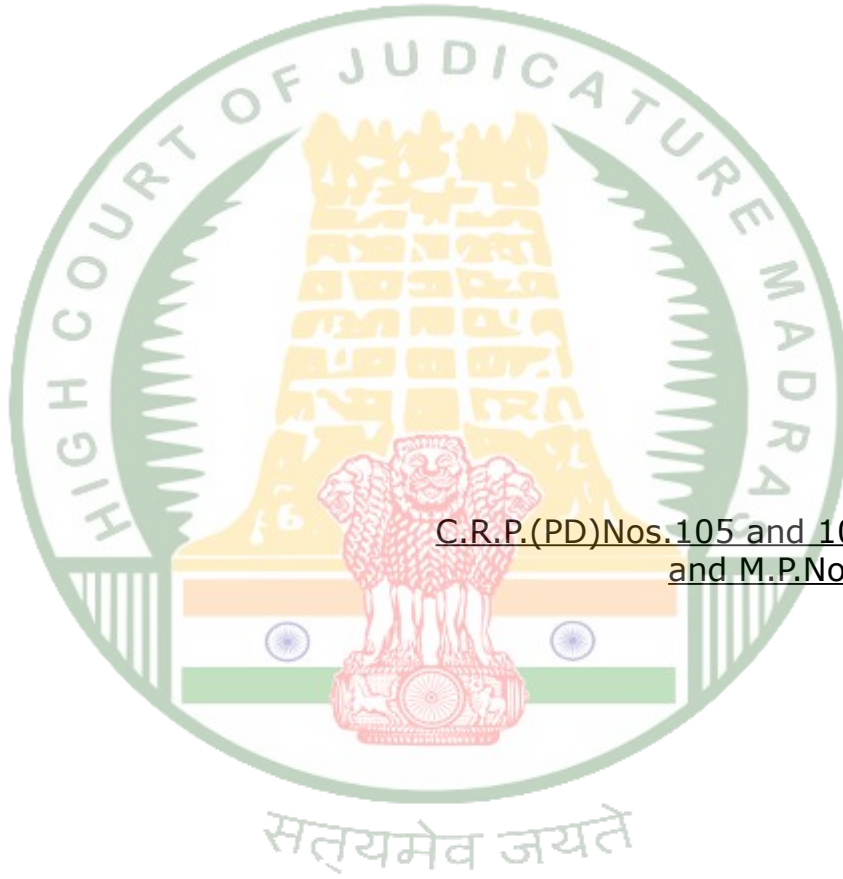
To

The Principal District Judge, Namakkal.

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V.M.VELUMANI,J.

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