

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CRP (PD) No.1451 of 2018
and CMP.No.7734 of 2018

Vellaiyammal (decd)

1.Sundarrajan
2.Santha @ Kuppammal
3.Kamala

... Petitioners

Vs

1.Sundari
2.Sathiyaraj
3.Ramar
4.Venkatachalam

... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the II Additional Sub Court, Salem to number I.A.SR.No.4418/2018 in O.S.No.345/2012 on the file of the II Additional Sub Court, Salem.

For Petitioners : Mr.R.Neelakandan

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ORDER

1.1. In this revision, this Court is informed of a peculiar procedure adopted by the learned II Additional Sub Court, Salem. The revision petitioners as plaintiffs filed a suit in O.S.No.345 of 2012 on the file of Sub Court, Salem for declaration of title and also for another declaration that a certain settlement

that the first defendant had executed in favour of the second defendant as null and void. The trial of the case has commenced. Be that as it may, the first defendant was a party defendant in O.S.No.842 of 2014 on the file of learned Additional District Munsif-II, Salem. In that suit, the petitioners were not parties, however in the pleadings of the first defendant in O.S.No.842 of 2014, there are certain materials which go contrary to the stand that he had taken in the present suit in O.S.No.345 of 2012. Therefore, the petitioners have attempted to obtain a certified copy of the documents pertaining to O.S.No.842 of 2014, which he relies on and attempted to mark it through the plaintiff during his examination as P.W.1.

3. The learned counsel for the petitioners would submit that this was not allowed by the learned Sub Judge, Salem on the ground that the petitioners are not parties to O.S.No.842 of 2014. Therefore, the petitioners had filed another application in I.A.SR.No.4418 of 2018, for sending for the certain documents in O.S.No.842 of 2014. This has not yet been numbered and hence the petitioner had approached this Court with this Revision petition with a solitary prayer that it be numbered.

4.1 Even though, the nature of the prayer sought in this case is what is indicated above, this Court needs to record his anguish that the procedure adopted by the learned Sub Judge is not encouraging. There are atleast two points the learned Sub Judge appeared to have missed :

renders a fact in issue or a relevant fact probable or improbable itself is relevant and hence can be admitted in evidence.

b) If at all there is any admission or contrary statement made by the party to a litigation, wherever the party has made a statement at any time can be admitted in evidence, for which even the certified copy can be received in evidence.

4.2. The very reasoning of the learned Sub Judge that the documents sought for cannot be admitted in evidence merely because the petitioners are not parties O.S.842 of 2014 does not indicate the right approach. What the learned Sub Judge ought to have considered is not whether the petitioners herein are parties there, but whether the fact intended to be introduced in evidence will affect the cause of action in the suit at hand.

5. With this observation, the present revision petition is allowed and the trial Court is required to bestow greater care in matters such as this. No costs. Consequently, connected miscellaneous petition is closed.

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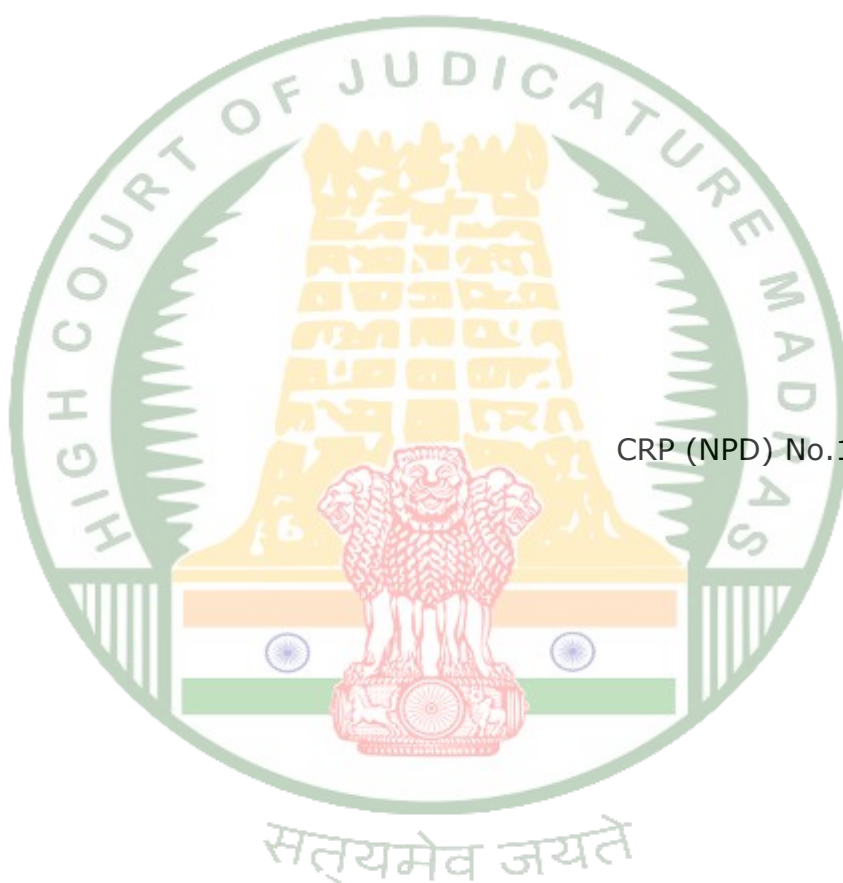
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Speaking Order / Non-speaking Order

To:

Salem.



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