

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.156 to 159 of 2018
& C.M.P.No.909 of 2018

1.K.Chinnasamy
2.R.Parthiban

.. Petitioners in
all the C.R.Ps.

Vs.

P.C.Ramasamy

.. Respondent in
all C.R.Ps.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 18.08.2017 made in I.A.Nos.354 and 355 of 2016, 201 and 202 of 2017 in O.S.No.13 of 2012 on the file of the Subordinate Court, Perundurai.

For Petitioners : Mr.V.Kadhirvelu

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decretal order dated 18.08.2017 made in I.A.Nos.354 and 355 of 2016, 201 and 202 of 2017 in O.S.No.13 of 2012 on the file of the Subordinate Court, Perundurai.

2.The issues and the parties involved in all the Civil Revision Petitions are one and the same and therefore, they are disposed of by this common order.

3.The petitioners are the plaintiffs and respondent is the defendant in O.S.No.13 of 2012 on the file of the Subordinate Court, Perundurai. The petitioners filed the said suit for permanent injunction restraining the respondent from interfering with their peaceful possession and enjoyment of the suit property. The respondent filed written statement on 04.04.2012 and is contesting the suit. Trial commenced. The parties let in evidence and closed their side. When the suit was posted for arguments, the petitioners filed I.A.Nos.354 and 355 to reopen the case and recall P.W.1 to mark judgment dated 28.04.2014 passed in O.S.No.268 of 2010 by the learned District Munsif, Perundurai.

4.According to the petitioners, to mark the some document, the case has to be reopened, otherwise, they will be put to loss and hardship. They filed two other applications, I.A.No.201 of 2017 to reopen I.A.Nos.354 and 355 of 2016 which were reserved for orders, for the purpose of filing the documents and I.A.No.202 of 2017 to condone the delay in filing the documents and permit them

to mark the said documents. According to the petitioners, they got the judgment and decree dated 28.04.2014 in O.S.No.268 of 2010 filed by one Selvaraj and Rajeswari against the respondent herein, his son Elango, wife Umayal and grandson Aswin before the District Munsif, Perundurai with regard to the same survey field and the said judgment is very relevant to prove their case. Only when the applications are reopened and allowed, the petitioners can file application to condone the delay. I.A.No.202 of 2017 is filed to condone the delay in filing the document.

5.The respondent filed counter affidavit and contended that the petitioners have not stated as to how the document will help their case. They have not filed any application to condone the delay in filing the document. They have filed applications when the suit was posted for arguments only to drag on the proceedings. When the applications were posted for arguments, there is no representation on behalf of the petitioners and orders were reserved.

6.The learned Judge considering the averments in the affidavit, counter affidavit, by the order dated 18.08.2017, dismissed I.A.Nos.201 and 202 of 2017 and in view of the dismissal

of I.A.Nos.201 and 202 of 2017, dismissed I.A.Nos.354 and 355 of 2016.

7. Against the said order of dismissal dated 18.08.2017 made in I.A.Nos.354 and 355 of 2016, 201 and 202 of 2017 in O.S.No.13 of 2012, the petitioners have come out with the present four Civil Revision Petitions.

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

9. From the records, it is seen that when the suit was posted for arguments, the petitioners filed two applications viz., I.A.Nos.354 and 355 of 2016 to reopen and recall P.W.1 to mark the document. According to the petitioners, they have to file certain documents. They have not furnished any details of the documents sought to be marked and no reason was given as to why the said documents were not produced and marked earlier. They have also not filed application for condonation of delay along with the application to reopen and recall P.W.1. When the order was reserved in the above two applications in I.A.Nos.354 and 355 of 2016, the petitioners filed two other applications in I.A.Nos.201 and 202 of

2017 for reopening I.A.Nos.354 and 355 of 2016 which were reserved for orders and I.A.No.202 of 2017 to condone the delay in filing the documents. In the said applications, the petitioners have stated that they have to mark the judgment and decree dated 28.04.2014 made in O.S.No.268 of 2010 passed by the learned District Munsif, Perundurai.

10. According to the petitioners, the said judgment relates to the property in same survey field and decree passed against the respondent and his family members. In the said application also, the petitioners have not stated as to why they have not filed the said documents and when they obtained the said documents. The learned Judge considered all the above facts and dismissed I.A.Nos.201 and 202 of 2017 by giving cogent and valid reason. In view of the dismissal of I.A.Nos.201 and 202 of 2017, the learned Judge also dismissed I.A.Nos.354 and 355 of 2016. It is pertinent to note that petitioners have filed suit for permanent injunction restraining the respondent from interfering with their possession of the suit property. It is for the petitioners to prove their possession to succeed in the suit. In view of the nature of relief sought for and the failure on the part of the petitioner to give any reason for not filing the documents earlier, I hold that there is no reason to

interfere with the impugned orders of the learned Judge dated 18.08.2017 made in I.A.Nos.354 and 355 of 2016, 201 and 202 of 2017 in O.S.No.13 of 2012.

11.In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

08.02.2018

Index: Yes/No

Internet: Yes/No

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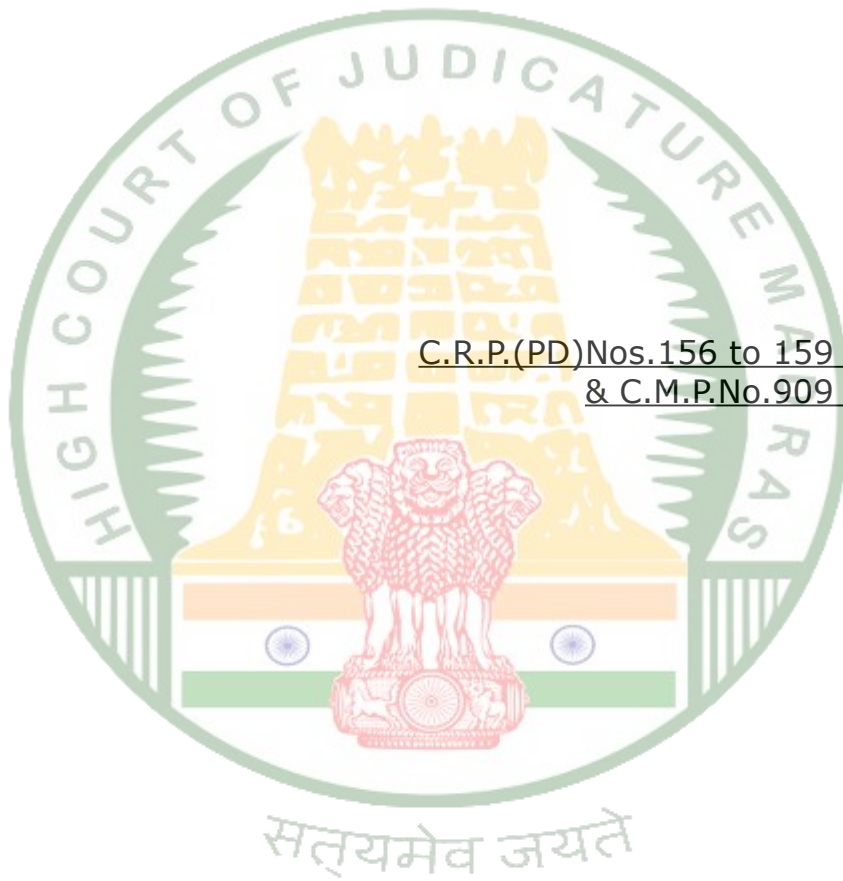
To

The Subordinate Judge,
Perundurai.

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V.M.VELUMANI, J.

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