

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.06.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**

CRP(PD)No.1584 of 2018

and

C.M.P.No.8570 of 2018

1.Ramachandran

2.Rajappa

3.Seenappa

4.Madhanagiriappa

..

Petitioners

vs.

1.Gurudev Reddy

2.Baskar Reddy

3.Vijay Mohan Reddy

4.Rathinamma

..

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 29.01.2018 passed in I.A.No.713 of 2017 in O.S.No.35 of 2005 by the learned Principal District Munsif cum Judicial Magistrate No.I, Hosur.

For Petitioner

... Mr.V.Nicholas

ORDER

The Civil Revision Petition has been filed by the petitioner against the fair and decreetal order dated 29.01.2018 passed in I.A.No.713 of 2017 in O.S.No.35 of 2005 by the learned Principal District Munsif cum Judicial Magistrate No.I, Hosur.

2. The petitioners herein are defendants 5 to 8 and the first respondent and respondents 2 to 4 herein are the plaintiff and defendants 1 to 3 respectively.

3. The brief facts of the case are as follows:

The first respondent / plaintiff filed a suit in O.S.No.35 of 2005 on the file of the District Munsif, Hosur against the petitioners and respondents 2 to 4 seeking for declaration of title and injunction and other reliefs. Pending the suit, the first respondent filed an application in I.A.No.713 of 2017 to condone the delay in producing the documents into Court and receive the same in evidence on the side of the first respondent and the same was allowed by the learned District Munsif cum Judicial Magistrate Court No.I, Hosur on 29.01.2018. Feeling aggrieved by the order dated 29.01.2018 passed by the trial

Court, the present civil revision petition has been filed by the petitioners.

4. The learned counsel for the petitioners/defendants 5 to 8 submitted that no reason has been assigned by the first respondent in the affidavit filed in support of I.A.No. 713 of 2017 for the delay caused in filing the application to condone the delay and they have not filed any document before the trial Court to prove their case. The trial Court without considering the averments made in the counter, erroneously allowed the application. Hence, the impugned order passed by the trial Court is liable to be set aside.

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

6. It is seen that the suit is filed in the year 2005. After completing the evidence, the matter was posted for trial. At this stage, after a lapse of 12 years, the first respondent/plaintiff filed an application to condone the delay in producing the documents into Court and receive the same in evidence. On a perusal of the list of documents filed before the trial Court, it is seen that the documents

are relating to the year 2017. It is observed from the order of the trial Court that if any objection has been made in respect of the documents filed before the trial Court, the same would be considered at the time of trial and there is no illegality or infirmity in the order passed by the Court below. Since the matter is posted for arguments, this Court is not inclined to interfere with the order passed by the trial Court.

7. At the concluding stage, the learned counsel for the petitioners submitted that a date may be fixed to dispose of the suit by the trial Court.

Considering the facts and circumstances of case and also considering the fact that the suit is of the year 2005, materials available on record and the submissions made by the learned counsel for the petitioners, this Court is inclined to pass the following orders:

"1. The trial Court is directed to mark the documents through the first respondent/plaintiff's witness on 13.06.2018 and post the suit in O.S.No.35 of 2005 on the

same day for cross-examination of the first respondent/plaintiff.

2.The trial Court is further directed to post the matter for arguments after completing the cross-examination on the side of the first respondent/plaintiff and dispose of the suit on or before 29.06.2018.

3.With the above said directions, the civil revision petition is disposed of. No costs.

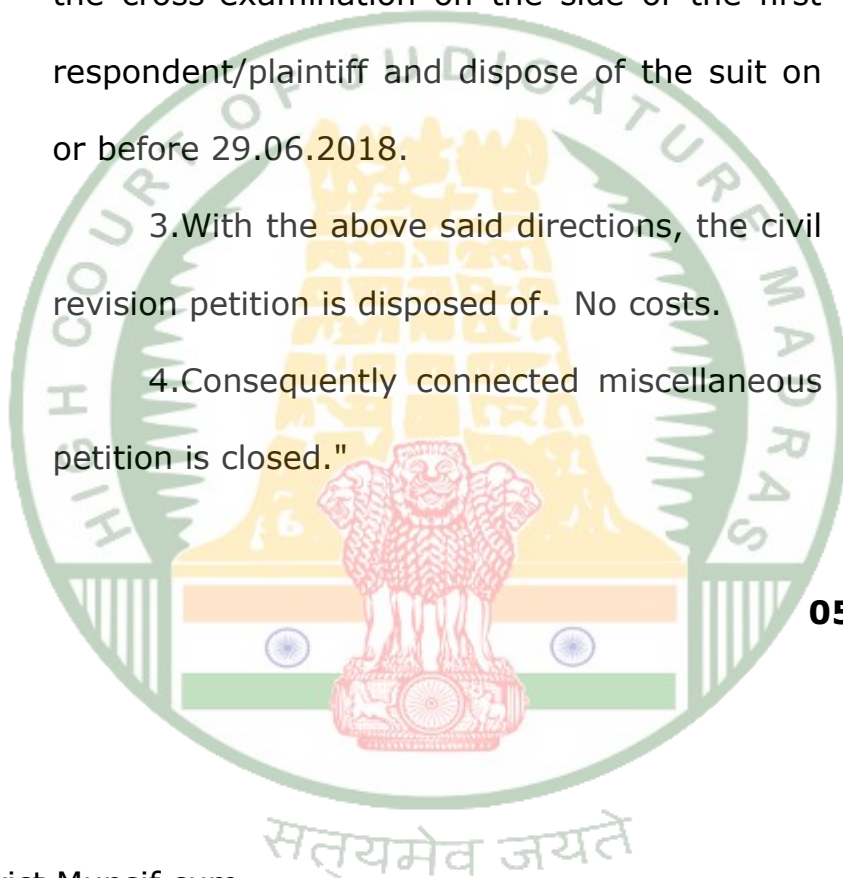
4.Consequently connected miscellaneous petition is closed."

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To

The District Munsif cum
Judicial Magistrate No.I,
Hosur.

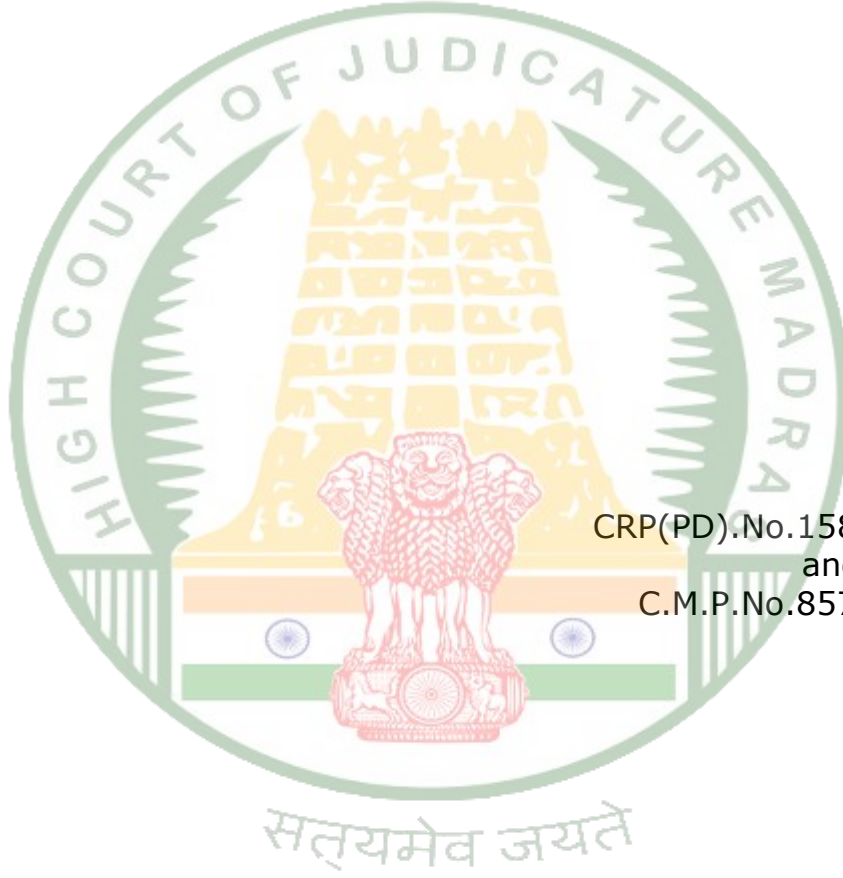
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P.VELMURUGAN.J,

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