

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1792 of 2018

and

C.M.P.No.10050 of 2018

1. K.Balamurugan
2. K.Ravikumar
3. V.Mangaiyarkarasi

... Petitioners

Vs.

1. L.S.Chenniappan
2. L.S.Sengottaiyan
3. Ranganayagi
4. L.P.Raja

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 20.03.2018 made in I.A.No.141 of 2018 in O.S.No.448 of 2013 on the file of the 1st Additional District Judge, Erode District.

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For Petitioner

: Mr.I.C.Vasudevan

ORDER

The relief sought for in this revision petition is to set aside the fair and decreetal order dated 20.03.2018 made in I.A.No.141 of 2018 in O.S.No.448 of 2013 on the file of the learned 1st Additional District Judge, Erode District.

2. The revision petitioners / plaintiffs filed a suit in O.S.No.448 of 2013 before the learned 1st Additional Subordinate Judge, Erode for partition.

3. During the pendency of the suit, they have filed an application before the trial Court under Order XVIII Rule 1 and Section 151 of C.P.C., in I.A.No.141 of 2018, to direct the first and second defendants to begin the trial. After hearing both sides, the trial Court dismissed the application.

4. Aggrieved against the order of the trial Court dated 20.03.2018, the revision petitioners are before this Court.

5. On a perusal of records, the defendants in their written statement claimed that even in the year 1969, there was a family arrangement among the family members and hence the defendants have to begin the trial. Since the suit is for partition, both the plaintiffs and defendants are liable to prove their case on their own oral and documentary evidences. Though it is settled

proposition that the plaintiffs have to independently prove their case on their own pleadings, and they shall not take advantage of the loopholes left by the defendants. But in the case of suit for partition, the defendants also deemed to be plaintiffs, they have to prove their claim independently.

6. Under these circumstances, this Court finds there is no illegality or perversity in the order passed by the trial Court and finds no valid reason to interfere with the order passed by the 1st Additional District Judge, Erode.

7. In the result, the Civil Revision petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

18.06.2018

Index:Yes/No

Speaking order / Non speaking order

vum

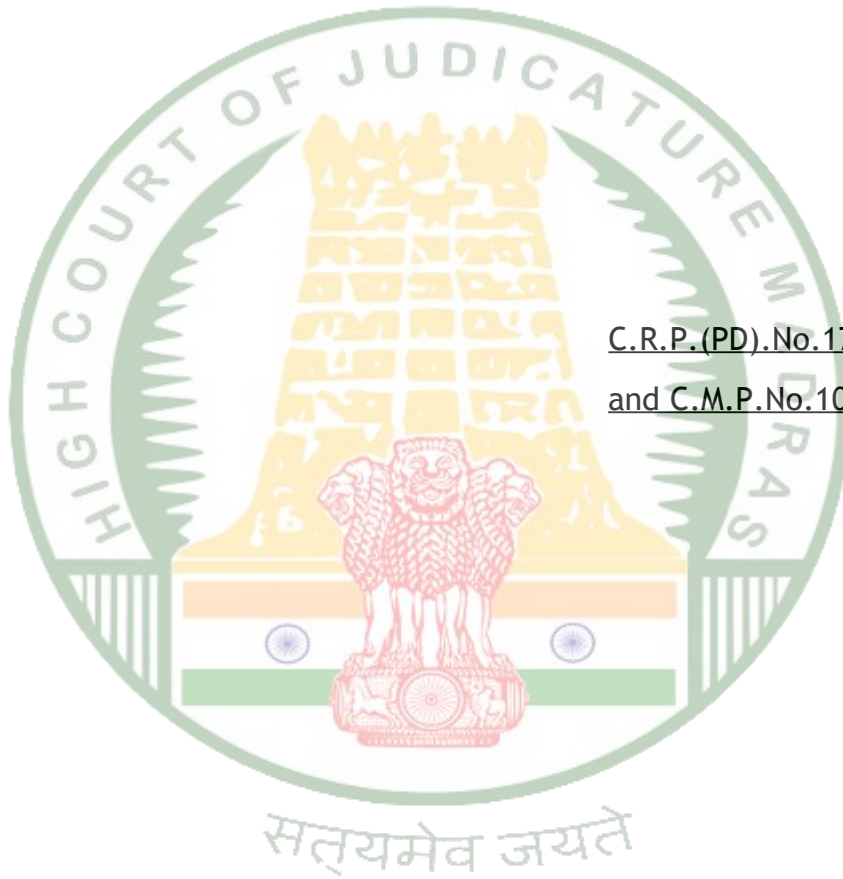
To

The 1st Additional District Judge,
Erode District.

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P.VELMURUGAN, J.,

vum



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