

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2018

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.3036 OF 2017
AND CMP NO.14227 OF 2017

1.S.Damodharan
2.N.Sulochana

... Petitioners

Vs.

1.Govinda Rajan
2.Palanisamy
3.Valliyathaal
4.G.V.Vijayaraj Mohan @ V.R.Mohan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order passed in I.A.No.989 of 2011 in O.S.No.565 of 2012 by the Principal District Munsif Court at Avinashi, Tirupur District, by its order dated 19.08.25016.

For Petitioners : Mr.S.Kingston Jerold

ORDER

This Civil Revision Petition is directed against the dismissal of the petition filed under Order 1 Rule 8 of the Code of Civil Procedure.

2. The revision petitioners filed a suit for cancelling the decree, in a partition suit, in O.S.No.82 of 1996, on the file of District Munsif Court, Perundurai, dated 10.11.1992. According to the petitioners, they are the purchasers of the house sites in the lay out, namely, Lakshmi Garden, from the fourth respondent / fourth defendant. Since all the purchasers are living in various places, they want to sue on behalf of all those persons.

3. But the fact remains that the first respondent / first defendant is seeking to execute the decree in so far as the portion allotted to him in the partition suit. It cannot be said that all the parties are having the same interest. It may differ person to person as their house sites may fall within the share of the first defendant or outside the share of the first defendant.

4. In such circumstances, the Trial Court has rightly dismissed the petition filed under Order 1 Rule 8 of the Code of Civil Procedure as it has to be contested by the individual plot owners. I do not find any infirmity in the order passed by the Trial Court.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

23.03.2018

Index : Yes/No

Internet : Yes/No

TK

To

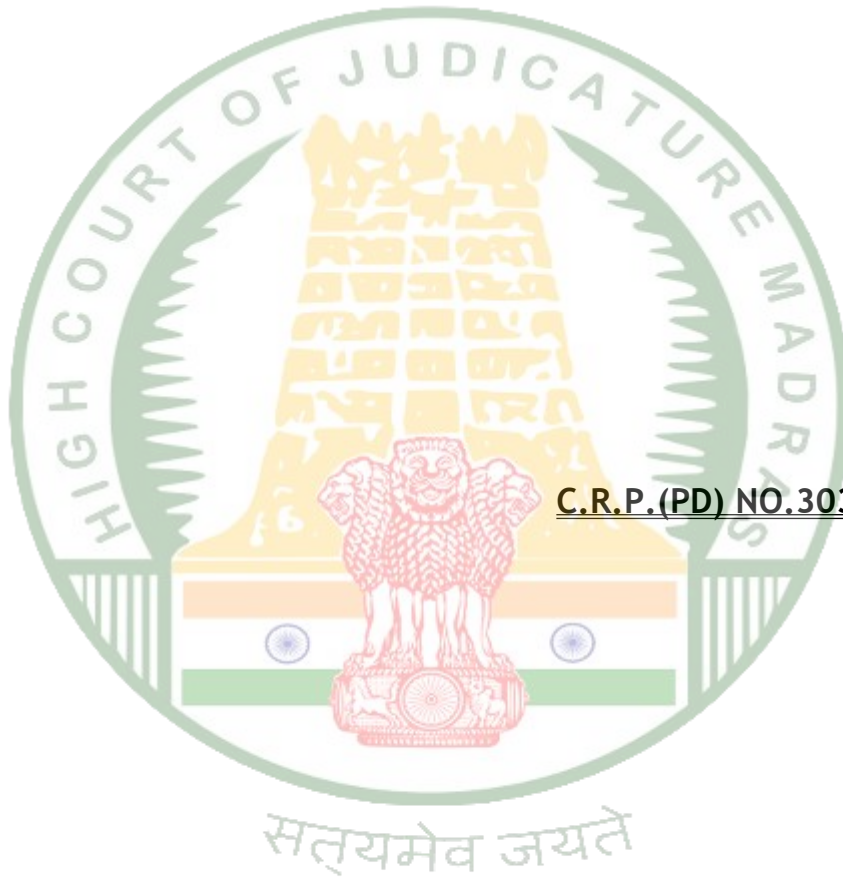
The Principal District Munsif Court
Avinashi,
Tirupur District.



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M.GOVINDARAJ, J.

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