

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 192 of 2018

and

CMP No.1086 of 2018

M.Mukesh

.. Petitioner

Vs

1. S.Vijayan
2. V.Maheswari
3. K.Selvaraj
4. M/S. Vignesh Constructions
No.E-4, Sabari Estate,
2nd Cross Street, Sabari Nagar Extension,
Mugalivakkam,
Chennai 600 125.
5. The Joint/Sub-Registrar,
South Chennai Registration Office,
Saidapet,
Chennai 600 015.

.. Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against fair and decretal order, dated 05.10.2017 passed in I.A.No.21 of 2017 in O.S.No.65 of 2015 on the file of the Additional District Court, (Fast Track Court), Kancheepuram and set aside

the same and further direct the learned Additional District Judge, to implead the 5th respondent herein as 5th defendant in O.S. No.65 of 2015 on the file of the Additional District Court, (Fast Tract Court), Kancheepuram.

For Petitioner:Mr.A.Thiagarajan Senior Counsel for
Mr.M.Nallathambi

ORDER

This Civil Revision Petition is filed against dismissal order, dated 05.10.2017 passed in I.A.No.21 of 2017 in O.S.No.65 of 2015 on the file of the Additional District Court, (Fast Track Court), Kancheepuram.

2. The learned counsel for the revision petitioner would submit that the petitioner has filed an I.A. No.21 of 2017 to implead the Joint Sub Registrar, South Chennai, Registration Office, Saidapet, Chennai -15 as a fifth defendant in the aforesaid suit. According to the learned counsel for the petitioner, the petitioner has filed an amended prayer for declaration declaring the three sale deeds as null and void. When filing an amended prayer for declaration, the present application has been filed by the petitioner to implead the Joint Sub Registrar to implead as 5th defendant in the suit. The aforesaid application erroneously

dismissed by the Court below, challenging against the said order, the revision petitioner has preferred Civil Revision Petition before this Court.

3. According to the learned senior counsel for the petitioner would submit that the Court below has failed to consider the contention of the petitioner by stating that the fifth respondent has created the encumbrance in favour of the third parties. Therefore, Joint Sub Registrar, South Chennai/fifth respondent is a necessary party in the suit. Hence, the order passed by the Court below is liable to be set aside.

4. I have considered the submissions of the learned senior counsel for the petitioner and perused the materials available on record. It is seen from the above said facts, the allegations of the petitioner is that the respondent has executed the sale deed in favour of the third party. Therefore, he filed the present application for declaration prayer in the aforesaid suit. Therefore, to avoid any further complexity in the transaction of the suit property by making further encumbrance, the present application has been filed. The present suit filed against the respondent/defendant suit for specific performance and for declaration.

Therefore, the application filed to implead the official respondent viz., the Joint Sub Registrar, South Chennai is not necessary to determine the issue involved in the present suit. However, the petitioner can workout his remedy for getting appropriate relief before the trial Court for any apprehension on the part of the petitioner. Hence, this Court is not inclined to entertain the Civil Revision Petition filed by the petitioner.

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

19.01.2018

Index: Yes/ No

Internet: Yes/No

Speaking Order/Non Speaking Order

RKP

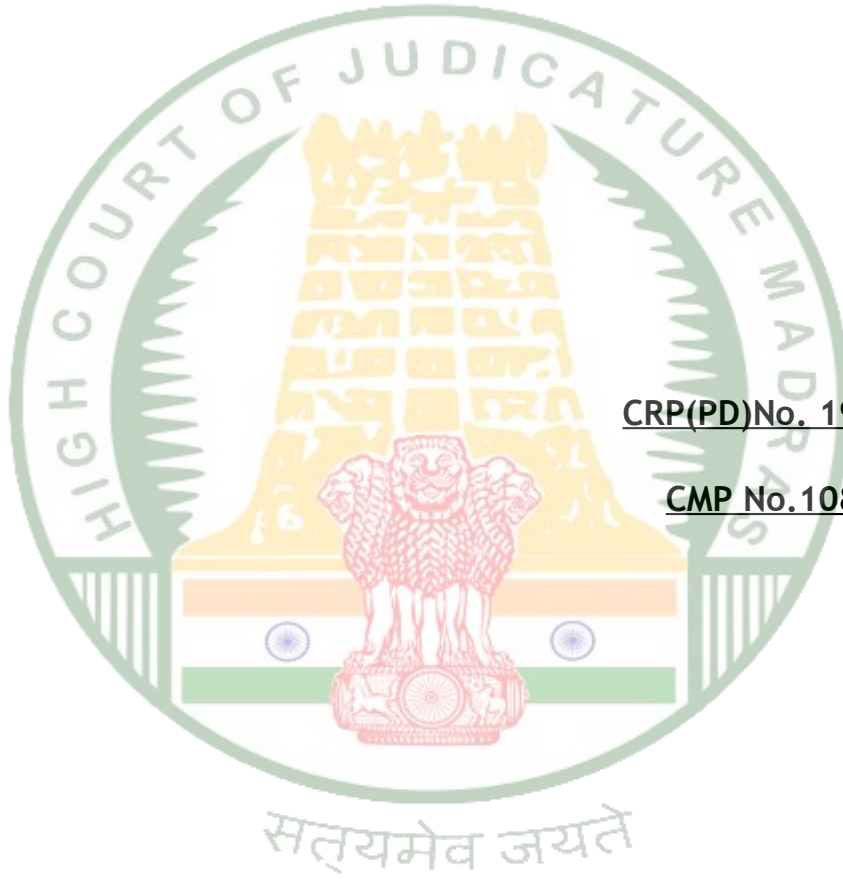
To

The Additional District & Sessions Judge for
Fast Track Court - II,
Kancheepuram.

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D. KRISHNAKUMAR J.,

rkp



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