

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRP.N.P.D.Nos.3628 to 3630 of 2017
and CMP.No.16936 of 2017

Kamalam

.. Petitioner in all CRPs.

Vs

P.Arumugam

.. Respondent in all CRPs.

PRAYER in CRP.NPD.No.3628 of 2018.: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 10.07.2017 made in I.A.No.637b of 2015 in I.A.No.218 of 2014 in O.S.No.233 of 2010 on the file of the Principal District Munsif Court, Tiruchengode.

PRAYER in CRP.NPD.No.3629 of 2018.: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 10.07.2017 made in I.A.No.74 of 2017 in I.A.No.637b of 2015 in I.A.No.218 of 2014 in O.S.No.233 of 2010 on the file of the Principal District Munsif Court, Tiruchengode.

PRAYER in CRP.NPD.No.3630 of 2018.: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated

10.07.2017 made in I.A.No.75 of 2017 in I.A.No.637b of 2015 in I.A.No.218 of 2014 in O.S.No.233 of 2010 on the file of the Principal District Munsif Court, Tiruchengode.

For Petitioner : Mr.Mukunth for
(in all CRPs.) M/s.T.L.Thirumalaisamy
For Respondent : Mr.M.Marudhachalamurthy for
(in all CRPs.) Mr.M.Thanu

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decretal order dated 10.07.2017 passed in I.A.No.637b of 2015 in I.A.No.218 of 2014 in O.S.No.233 of 2010, I.A.No.74 of 2017 and I.A.No.75 of 2017 in I.A.No.637b of 2015 in I.A.No.218 of 2014 in O.S.No.233 of 2010 on the file of the Principal District Munsif Court, Tiruchengode.

2. The first defendant in O.S.No.233 of 2010 on the file of the learned District Munsif, Tiruchengodu, is the revision petitioner herein.

3. According to the petitioner, the respondent herein had filed a suit in O.S.No.233 of 2010 seeking declaration and delivery of possession in respect of the suit property against the petitioner and her daughter i.e. second

defendant. The revision petitioner has filed the written statement on 09.02.2011, wherein it is stated that the suit properties were originally belonged to one Bhuvaneswaran, who is the husband of the petitioner and they are continuing the possession of the suit property for more than 26 years. After that, on 15.12.2017, the plaintiff came to the suit property and trying to evict the defendant. So the defendant and her daughter jointly filed a suit in O.S.No.454 of 2007 on the file of the District Munsif court, Tiruchengode seeking permanent injunction and the same is pending. During the pendency of the above said suit, the second defendant viz., Bhuvaneswaran, died in the year 2009 and has not registered the death. Subsequently, the issues were framed by the trial Court on 20.02.2011 and thereafter, the case was directed to be posted on 19.09.2011 for the appearance of the petitioner. On 19.09.2011, the respondent/plaintiff was present, but the petitioner/defendant nor his counsel was present on the above said hearing. Hence, the defendant was called absent and set exparte. Thereafter, the petitioner herein has filed the application in I.A.No.799 of 2013 in O.S.No.233 of 2010 to set aside the exparte decree passed on 19.09.2011. The said application was directed to be posted on 09.01.2014 for enquiry. On that day, the petitioner herein nor his counsel was present on the above said hearing. Hence, the said application was dismissed for default. Thereafter, the petitioner herein had filed an application in I.A.No.218 of 2014 in I.A.No.799 of

203 in O.S.No.233 of 2010 to condone the delay of 38 days in filing to restore the application in I.A.No.799 of 2013 which was dismissed for default on 09.01.2014. Again, the petitioner had filed an application in I.A.No.637b of 2015 in I.A.No.218 of 2014 in O.S.No.233 of 2010 seeking remove the name of the petitioner's husband viz., Bhuvaneswaran, in the order passed in I.A.No.218 of 2014 dated 03.03.2015 and to issue fresh order to file the civil revision petition before this Court and the same was dismissed on 10.07.2017. Thereafter, the petitioner herein had filed two applications in I.A.No.74 of 2017 seeking to reopen the petition in I.A.No.637b of 2015 for the purpose of filing the amendment petition on the side of the respondent/plaintiff and I.A.No.75 of 2017 seeking permit to amend the petition in I.A.No.637b of 2015 . Therefore, the above said applications were dismissed by the trial Court. Challenging the above said dismissal orders, the petitioner has filed the present civil revision petition before this Court.

4. The learned counsel for the petitioner would submit that the petitioner's husband is not a party to the proceedings. The petitioner had preferred the civil revision petition before this court. This Court has directed to advise the petitioner to rectify the mistake in the cause title before the trial Court. After numbering that, the trial Court had dismissed the application on the ground that the review application has been filed beyond

the limitation.

5. On a perusal of the records, it is not in dispute that the respondent herein had filed a suit in O.S.No.233 of 2010 seeking declaration and delivery of possession in respect of the suit property against the petitioner and her daughter i.e. second defendant. There is no application has been filed to condone the delay in filing the review application and hence, this Court finds no illegality or infirmity in the order passed by the trial Court.

6. In view of the above, these civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.04.2018

Index : Yes/No

Internet : Yes/No

Speaking : Non Speaking Order

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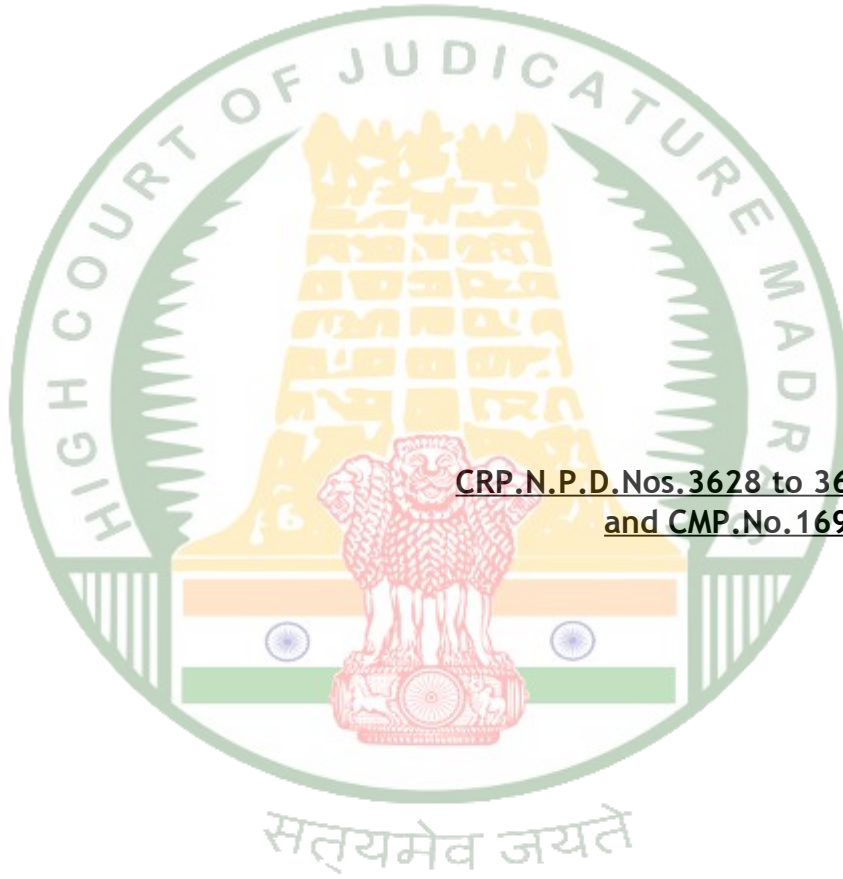
To

The Principal District Munsif,
Tiruchengode.

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P.VELMURUGAN,J.

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