

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.06.2018

CORAM

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

CRP(PD)Nos.3760 and 3761 of of 2017
and
C.M.P.No.17510 of 2017

A.Chinnasamy @ Narayanasamy .. Petitioner
in both petitions

vs.

1.Deivasigamani

2.Palaniammal

3.Mani @ Sivagami

4.Minor Vignesh

5.Minor Naveen

(Respondents 4 and 5 are
represented by their Mother
and natural guardian Mani
@ Sivagami)

6.Ramathal

7.Minor Syamala
Rep. by her mother
and natural guardian
Ramathal

8.C.K.Patteeswaran

.. Respondents
in both petitions

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Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final orders dated 10.08.2017 passed in I.A.Nos.266 of 2017 and 267 of 2017 in O.S.No.68 of 2013 by the learned II Additional District and Sessions Judge, Tiruppur.

For Petitioner ... Mr.S.Kaithaimalai Kumaran

For Respondents ... No Appearance

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioner against the fair and final orders dated 10.08.2017 passed in I.A.Nos.266 of 2017 and 267 of 2017 in O.S.No.68 of 2013 by the learned II Additional District and Sessions Judge, Tiruppur.

2. The petitioner herein is the plaintiff and the respondents are the defendants.

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

(i)Originally the suit was filed in O.S.No.186 of 2003 on the file of the District Munsif, Perundurai against the respondents/defendants seeking a direction for division of suit properties into two equal shares by metes and bounds and with reference to good and bad soil and allot one such share to the plaintiff and put him in separate possession and

for permanent injunction restraining the defendants from disturbing the peaceful possession and enjoyment of the petitioner/plaintiff and the said suit was amended and thereafter as per the pecuniary jurisdiction the said suit was transferred to II Additional District and Sessions Court, Tiruppur and renumbered as O.S.68 of 2013.

(ii) Pending suit, the petitioner filed two applications in I.A.No.266 of 2017 to reopen the plaintiff side evidence to recall P.W.1 and to mark further documents and I.A.No.267 of 2017 to recall the petitioner i.e. P.W.1 and permit the petitioner to produce the additional documents on his side and mark the same. The trial Court, after hearing the arguments advanced by the learned counsel on either side and after perusing the documents available on record dismissed both the applications by order dated 10.08.2017 holding that the petitioner filed these applications with an intention to drag on the suit proceedings. Feeling aggrieved by the said orders, the petitioner filed the present civil revision petitions.

4.The learned counsel for the petitioner submitted that the trial Court without considering the averments made in the affidavit filed in support of the applications, erroneously dismissed the applications and orders passed by the trial Court are contrary to law, unsustainable

and caused irreparable loss and hardship to the petitioner. Hence, the impugned orders passed by the trial Court are liable to be set aside and the civil revisions are to be allowed.

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

6. On a perusal of the records, it is seen that originally the suit was filed in the year 2003 for partition and separate possession in O.S.No.186 of 2003 on the file of the District Munsif, Perundurai and the said suit was amended and thereafter as per the pecuniary jurisdiction the said suit was transferred to II Additional District and Sessions Court, Tiruppur and renumbered as O.S.68 of 2013.

7. It is further seen that after completion of the plaintiff's side evidence, the suit was posted for defendants' side evidence. The additional documents, which have to be marked, are not available at the time of filing Chief affidavit and the said documents are available when the respondents/defendants got into the witness box. But, the respondents/defendants have not admitted the said registered documents. Hence, the petitioner/plaintiff filed two applications in I.A.No.266 of 2017 to reopen the plaintiff side evidence to recall P.W.1

and to mark further documents and in I.A.No.267 of 2017 to recall the petitioner i.e. P.W.1 and permit the petitioner to produce the additional documents on his side and mark the same. If the applications are allowed, no prejudice would be caused to the respondents.

8.Considering the submissions made by the learned counsel for the petitioner, this Court is inclined to pass the following orders:

(i)The petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty thousand only) to the credit of O.S.No.68 of 2013 on the file of I Additional District and Sessions Court, Tiruppur.

(ii)After depositing the said amount, the trial Court is directed to allow I.A.Nos. 266 and 267 of 2017 and permit the petitioner/plaintiff to mark the additional documents and dispose of the suit in accordance with law.

(iii)On such deposit of the said sum, the respondents/defendants are permitted to withdraw the same."

P.VELMURUGAN.J,

cla

With the above said directions, the civil revision petitions are disposed of. No costs. Consequently connected miscellaneous petition is closed.

cla

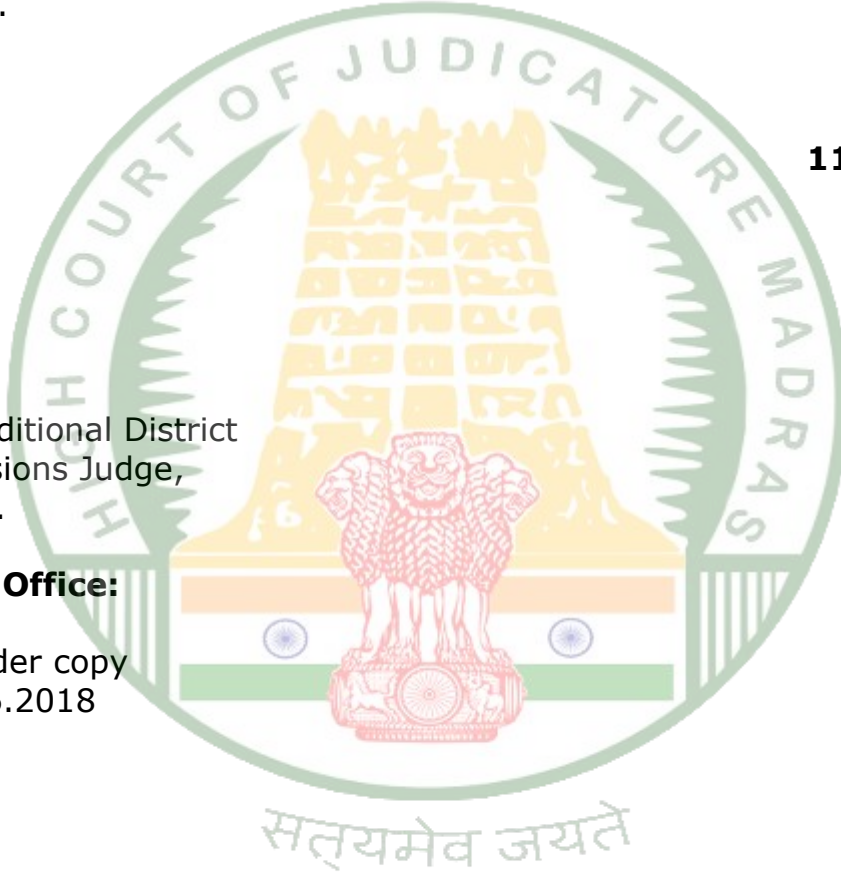
To

The I Additional District
and Sessions Judge,
Tiruppur.

Note to Office:

Issue order copy
on 21.06.2018

11.06.2018



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