

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Civil Revision Petition (PD) No.4063 of 2017

and

C.M.P.No.19023 of 2017

M.Palanivel

... Petitioner

..Vs..

K.R.Balamurugan (died)

Vasanthamani

... Respondent

Prayer: This Civil Revision Petition has been filed under Article 227 of Constitution of India, against the order and decretal order dated 22.09.2017 made in I.A.No.278 of 2017 in O.S.No.185 of 2013 on the file of the Sessions (Fast Track Mahila) Judge, Namakkal.

For petitioner : Mr.T.Dhanyakumar

For Respondent : Mr.J.Srinivasan Mohan

ORDER

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Challenging the fair and decretal order passed by the Sessions (Fast Track Mahila) Judge, Namakkal, against the order and decretal order dated 22.09.2017 made in I.A.No.278 of 2017 in O.S.No.185 of 2013, the present revision petition has been filed.

2. The petitioner filed a suit in I.A.No.111 of 2015 in O.S.No.185 of 2013, praying to send for LTI register for the year 2000 for comparing the LTI of respondent available in it relating to document No.2063 of 2000 with the disputed LTI found in alleged sale agreement dated 14.08.2008. The Court below dismissed the said application on 22.09.2017, by holding that the signature of D1 available in the sale agreement and other documents and petition, affidavit filed by D1, prior to the death of D1; but the petitioner, without taking steps for comparing the signature of D1, taken steps for comparing LTI for which the respondent also reported no objection. Challenging the aforesaid order, the petitioner has filed this Civil Revision Petition before this Court.

3. According to the learned counsel for the petitioner, the plaintiff has filed in I.A.No.278 of 2017 in O.S.No.185 of 2013, seeking to send for LTI register for the year 2000 for comparing the LTI of respondent available in it relating to document No.2063 of 2000 with the disputed LTI found in alleged sale agreement dated 14.08.2008.

4. The learned counsel for the petitioner submits that unless the said I.A is ordered, no prejudice would be caused to the petitioner/plaintiff.

5. By considering the above said facts and submissions made by both the parties and since the petitioner has filed the suit for Specific Performance, the petitioner has to prove the case, therefore, by affording an opportunity to the petitioner/plaintiff, also in the interest of justice, this Court is inclined to allow this Civil Revision petition.

6. Accordingly, the order passed in I.A.No.278 of 2017 in O.S.No.185 of 2013, on the file of Sessions (Fast Track Mahila) Judge, Namakkal is set aside and this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.02.2018

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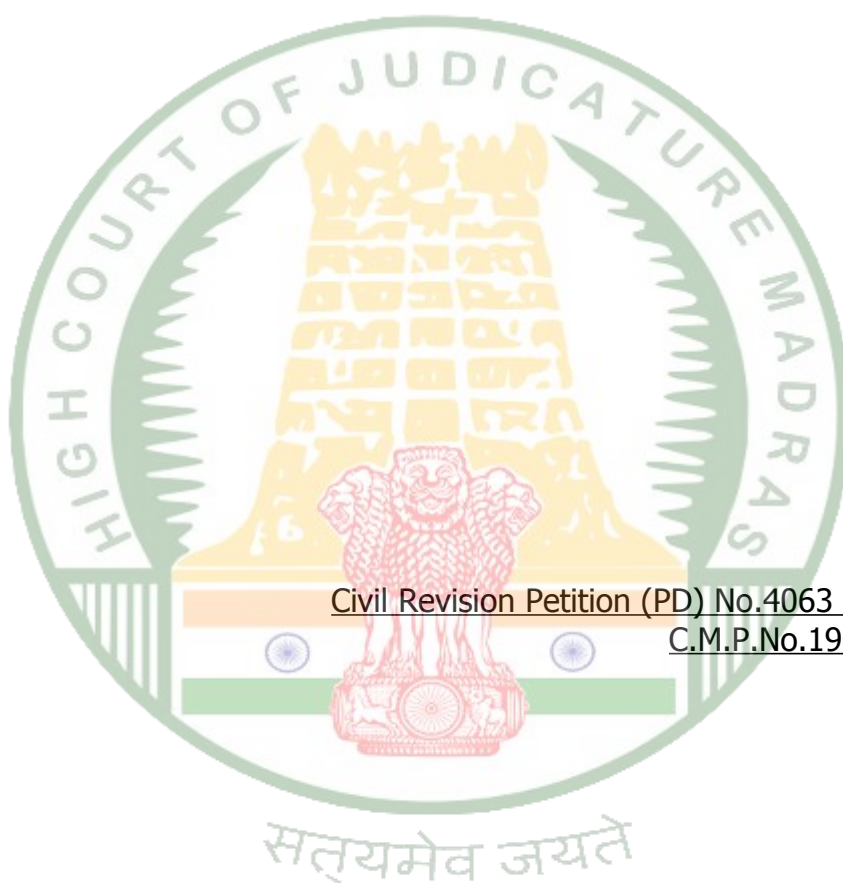
To

The District Munsif cum Judicial Magistrate, Sriperumpudur

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D.KRISHNAKUMAR, J.,
nvi



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