

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 4101 of 2017
and
C.M.P No. 19215 of 2017

Seenappa @ Srinivasiah

.. Petitioner

Vs

1. R. Krishnappa
2. Kalavathy
3. Prabhu
4. Babu
5. Sivan
6. Sangeetha
7. G. Daivayani @ Rani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order in I.A. No. 30 of 2011 in O.S. No.82 of 2004 dated 09.10.2017 on the file of District Munsif, Hosur.

For Petitioner : Mr. V. Raghavachari

For Respondents : Mr. V.R. Anna Gandhi for R2,3 & 5 to 7

No Appearance for R1 & 4

ORDER

This revision petition is filed against the order and decretal order in I.A. No. 30 of 2011 in O.S. No.82 of 2004 dated 09.10.2017 on the file of District Munsif, Hosur.

2. The respondents have filed the suit in O.S. No. 82 of 2004 for partition. Subsequently, the petitioner filed an application in I.A. No. 30 of 2011 under Order 6 Rule 14A of CPC seeking stay of all further proceedings in the suit, alleging that the 7th plaintiff/ 7th respondent, is not the real person Daivayani @ Rani, wife of late K. Babu, daughter of Mr. Govindaraju. The petitioner has also stated in the affidavit that he has taken steps to summon the real person Rani @ Daivayani, to appear in person along with identity proof and marriage album to show that some one other than the real person have filed vakalat on her behalf and have played fraud in Court.

3. The learned counsel for the petitioner would submit that the plaintiffs have furnished false and fictitious address of the 7th plaintiff/

7th respondent in the Court and hence has filed the application to stay all further proceedings in the suit. Though the respondents/ plaintiffs have not disproved the allegations of the petitioner, the court below has dismissed the said application stating that the same can be decided at the time of trial in the suit.

4. The learned counsel appearing for the respondents 2, 3 & 5 to 7 would submit that the allegations can be considered at the time of trial in the suit by adducing oral and documentary evidence. It was further submitted that the suit is of the year 2004 and the present stay application has been filed in the year 2011, would jeopardise the entire trial of the suit. Hence, the Civil Revision Petition is liable to be dismissed.

5. Considering the submission of the learned counsel for both the parties and in perusal of the material available on record, this Court is inclined to pass the following order :-

1. The petitioner is granted liberty to raise the aforesaid allegations and all the other grounds before the court below, at the time of

trial of the suit.

2. The respondents/ plaintiffs are directed to prove the identity and the signature of the 7th plaintiff/ 7th respondent found in the vakalat in the suit.

3. On instructions, both the parties undertake to co-operate for the disposal of the suit before the court below.

4. The trial court is directed to dispose of the suit as expeditiously as possible.

6. In fine, the Civil Revision Petition is disposed of, with the above directions. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

28.02.2018

Index : Yes/ No

Speaking order/ Non speaking order

[Issue order copy on 25.04.2018]

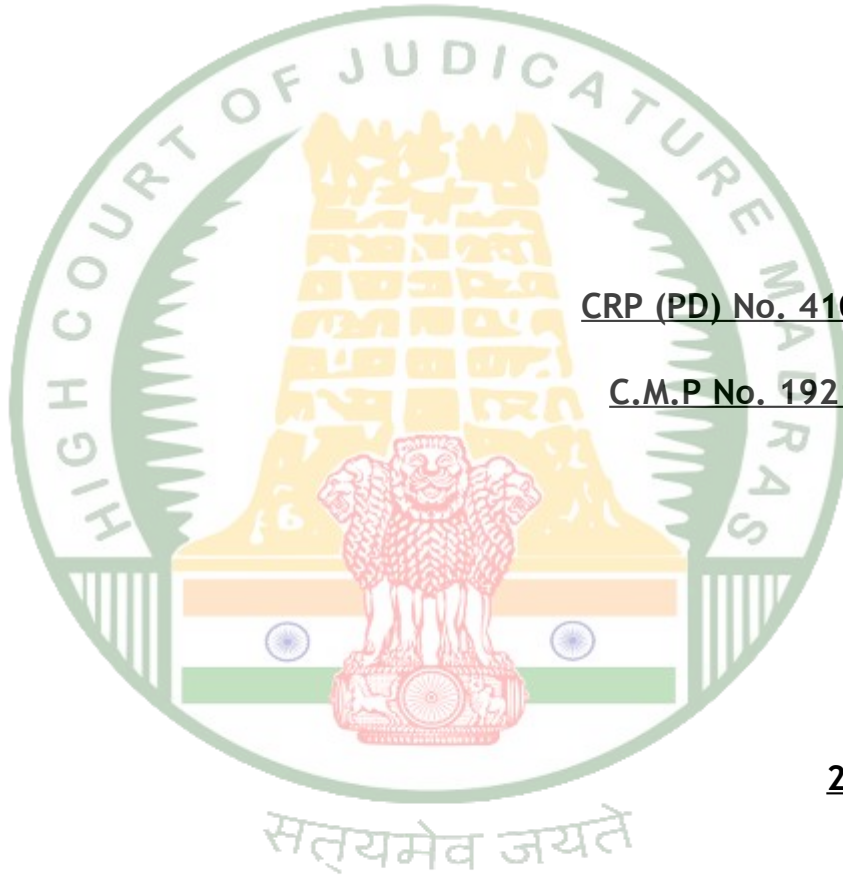
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To

The District Munsif Court, Hosur.

D. KRISHNAKUMAR J.,

avr



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