

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 4695 of 2017
and
C.M.P NO. 22080 of 2017

R. Balusamy

.. Petitioner

Vs

Arulmigu Visweswaraswamy
Vishalakshmiyamman and
Subramaniaswamy Temple
Nallur Village
Tirupur District
rep. By its Executive Officer



.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to strike off the suit in O.S. No. 252 of 2017 on the file of the learned Subordinate Judge, Tirupur and pass further orders.

For Petitioner

: Mr. Nagasundaram
for S. Sivakumar

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ORDER

This revision petition is filed seeking to strike off the suit in O.S. No. 252 of 2017 on the file of the learned Subordinate Judge, Tirupur.

2. The learned counsel for the petitioner would submit that the respondent has filed a suit seeking for declaration of title and vacant possession. The petitioner is the absolute owner of the property at Plot No.38 and 39, Amarjothi Mullai Nagar, Nallur Village, Tirupur Taluk and District comprised in S.No.247 to an extent of 1950 sq.ft. Out of 3900 sq.ft., originally forming part of the larger extent of land comprised in S. No.247 Nallur Village, of about 6.58 acres owned by one Mr.R. Kandasamy and Valliammal, under the registered Doc. No.2019 of 1946 dated 22.11.1946. The said lands were issued with Ryotwari patta in the name of the aforesaid Kandasamy and Valliammal vide order in S.R. No.656/68/M.I. Act/ Palladam Taluk dated 24.10.1968. After examining the oral and documentary evidences by the revenue authorities, the aforesaid order was passed by the Settlement Tahsildar -II,

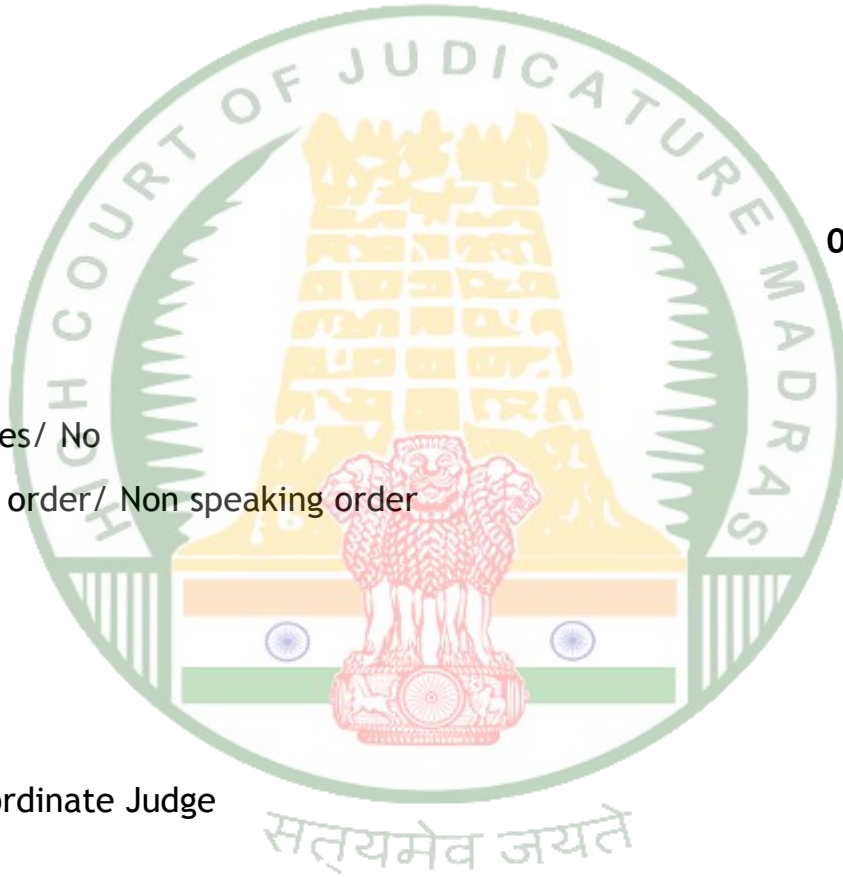
Gobichettipalayam. Subsequent to that, the aforesaid property was divided and converted into housing plots of different extent and sold to various third parties under layout named as Amarjothi Mullai Nagar. The petitioner purchased one such plot under the registered sale deed dated 14.07.2003. The patta also stands in the name of the petitioner as a joint holder. Subsequently, the petitioner came to know about the proceedings issued by the respondent dated 11.10.2013, to the Sub Registrar Office, Nallur, restraining from entertaining any registration in respect of Survey No.247, stating that the same belongs to the respondent temple. The subject matter of the suit properties are one among the said proceedings. Therefore, the petitioner made a request before the Commissioner of HR & CE Department. In view of the statement made by the Executive Officer of HR & CE Department, that they have taken a decision to file a suit, the representation of the petitioner was not considered. Challenging the said order, the petitioner filed W.P. No. 25255 of 2017 before this Court and the same is pending.

3. According to the petitioner, patta was granted in the year 1968 and the said copy of the order has also been communicated to the

concerned authority. Now, the petitioner has filed the present revision petition, raising the ground that the suit filed by the respondent is barred by limitation and abuse of process of law. The Settlement Tahsildar-II, Gobichettipalayam, after due enquiry under the Madras Minor Inam (Abolition and Conversion into Ryotwari) Act, 1963, has passed the order on 24.10.1968 and so the said order has become final. Pursuant to the said order, the petitioner has purchased the suit property from the predecessor of the title in the year 2003. Hence, the present revision petition has been filed before this Court.

4. The revision filed by the petitioner cannot be entertained for the reason that there is a provision under the Order 7 Rule 11 of Code of Civil Procedure, for filing an appropriate application before the trial court, by producing necessary documents. The petitioner has approached this Court by filing the Civil Revision Petition, to strike of suit. No prima facie case is made out. Hence, the revision petition deserves to be dismissed as not maintainable.

5. The Civil Revision Petition is dismissed. However, it is open to the petitioner to file appropriate application before the court below, if so advised, as permissible under law. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.



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Index : Yes/ No

Speaking order/ Non speaking order
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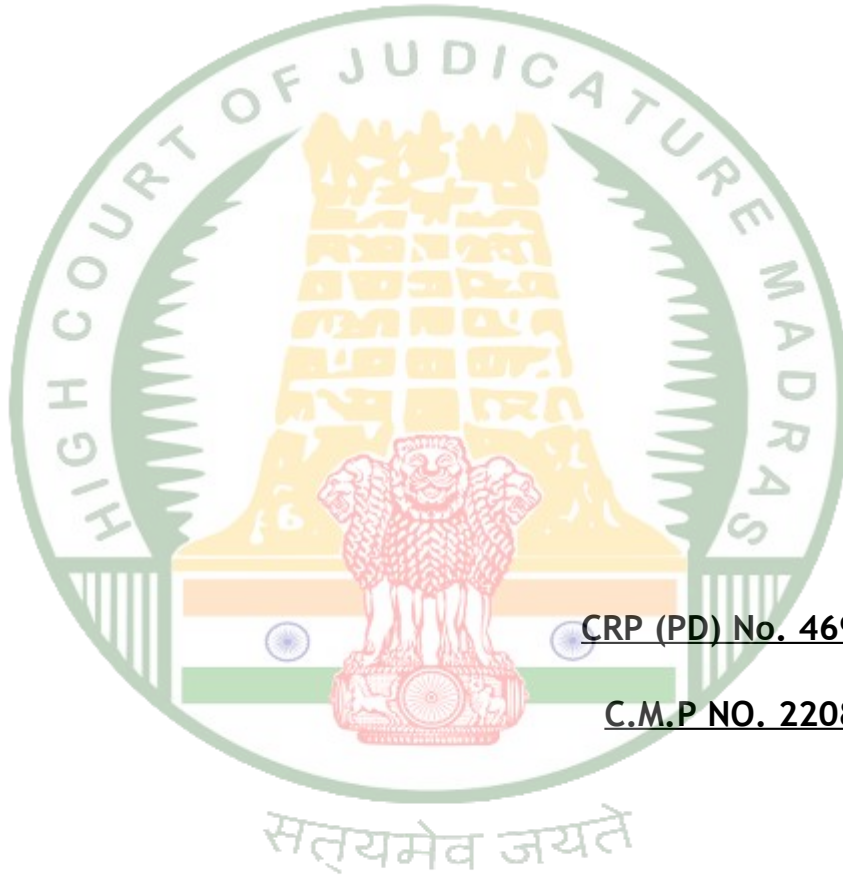
To

The Subordinate Judge
Tirupur.

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D. KRISHNAKUMAR J.,

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