

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1107 of 2015
& M.P.No.1 of 2015

Mallika

.. Petitioner

Vs.

1.K.Thillai Vinayagam
2.Azhagiri
3.Maran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 13.01.2015 made in E.A.No.98 of 2014 in E.P.No.45 of 2011 in R.C.O.P.No.8 of 2001 on the file of the District Munsif Court, Thiruvavarur.

For Petitioner : Mr.M.Thamizhavel

For R1 : Mr.M.Mohamed Hasain

For R2 & R3 : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the order dated 13.01.2015 made in E.A.No.98 of 2014 in E.P.No.45 of 2011 in R.C.O.P.No.8 of 2001 on the file of the District Munsif Court, Thiruvavarur.

2.The petitioner is third party, first respondent is the petitioner and respondents 2 and 3 are the respondents in E.P.No.45 of 2011. She filed E.A.No.73 of 2014 under Order XXI Rule 58 and Section 101 of C.P.C against the respondents for dismissal of E.P.No.45 of 2011. According to the petitioner, she is the co-sharer of the petition premises along with the respondents 2 and 3, who are her brothers and other brothers and sisters. The first respondent is not owner of the property. By creating fraudulent documents, the first respondent filed R.C.O.P.Nos.9 and 10 of 2001 against one Palani and Mohammed Husain and obtained order of eviction. The first respondent filed present R.C.O.P.No.8 of 2001 against the respondents 2 and 3 who are the brothers of petitioner for eviction. The respondents 2 and 3 did not properly contest R.C.O.P and eviction was ordered. The petitioner is in possession of the petition premises and the petitioner was not impleaded as a party in the said R.C.O.P. Order of eviction passed in R.C.O.P.No.8 of 2001 is not acceptable.

3.The petitioner filed E.A.No.98 of 2014 under Order XIII Rule 10 and Section 151 of C.P.C to send for case bundles in R.C.O.P.No.8 of 2001 from the records of District Court, Thiruvavur. According to the petitioner, those case bundles are necessary to prove her case.

4.The learned Judge dismissed the application on the ground that petitioner has not satisfied the Court with regard to power of the Court to send for the case bundles from the District Court, Thiruvavarur and directed the petitioner to apply for certified copy of the documents.

5.Against the said order of dismissal dated 13.01.2015 made in E.A.No.98 of 2014 in E.P.No.45 of 2011 in R.C.O.P.No.8 of 2001, the present Civil Revision Petition is filed by the petitioner.

6.Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record.

7.From the averments in the affidavit filed in support of the present E.A.No.98 of 2014, it is seen that petitioner has not given any reason to send for the case bundle from records of District Court, Thiruvavarur. The petitioner has also not stated as to why she has not filed any application for obtaining the certified copy of the relevant documents relied on by her. Based on the vague allegations entire case bundles from the records of the District Court, Thiruvavarur cannot be called for. The learned Judge has directed the petitioner to file certified copy of the said records. There is no

illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 13.01.2015 made in E.A.No.98 of 2014 in E.P.No.45 of 2011 in R.C.O.P.No.8 of 2001.

8.In the result, this Civil Revision Petition is dismissed. NO costs. Consequently, connected Miscellaneous Petition is closed.

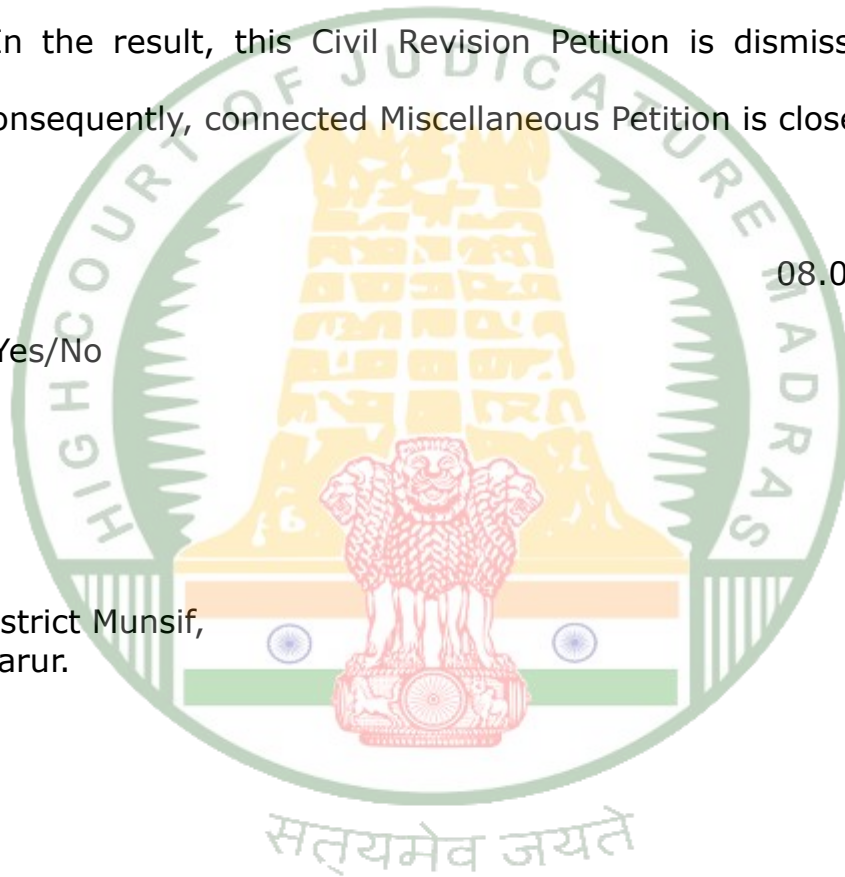
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Index : Yes/No

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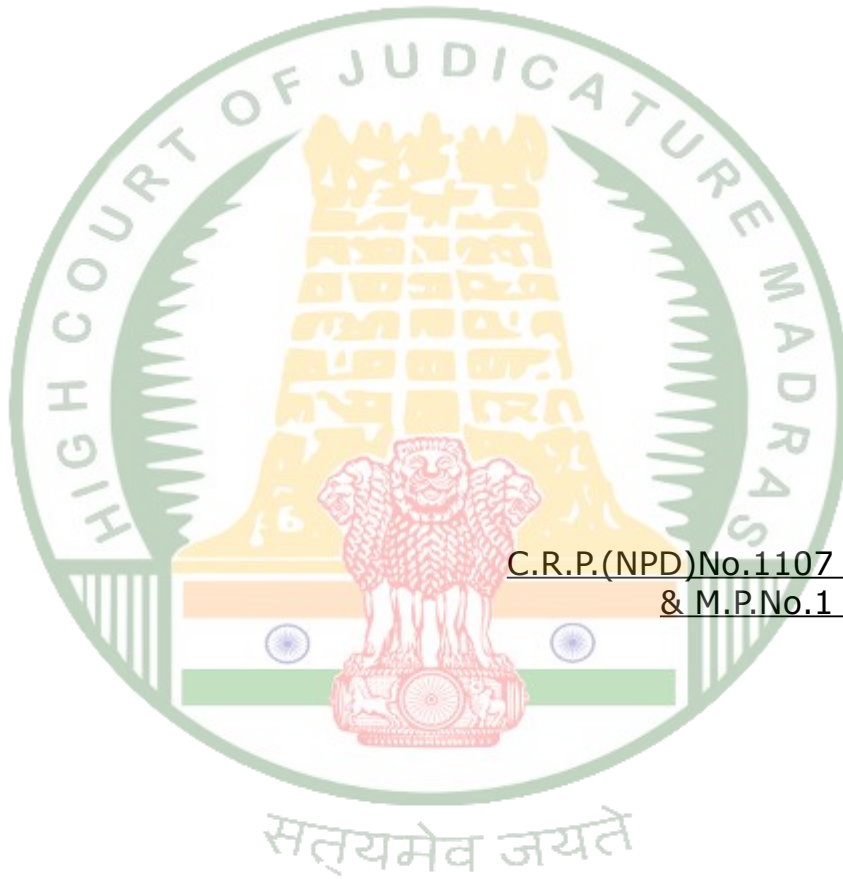
The District Munsif,
Thiruvarur.



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V.M.VELUMANI,J.

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