

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1128 of 2015
and M.P.No.1 of 2015

Muthukumar

.. Petitioner

Vs.

1.Poovaneshwari

2.Kavitha

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 01.12.2014 made in I.A.No.1361 of 2014 in O.S.No.301 of 2011 on the file of the Principal District Munsif Court, Ulundurpet.

For Petitioner : Mr.C.Munusamy
For R1 & R2 : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 01.12.2014 made in I.A.No.1361 of 2014 in O.S.No.301

of 2011 on the file of the Principal District Munsif Court, Ulundurpet.

2. The petitioner is plaintiff and respondents are the defendants in O.S.No.301 of 2008 on the file of the Principal District Munsif Court, Ulundurpet. The petitioner filed the said suit for permanent injunction on 18.10.2011. According to the petitioner, the first respondent on 06.10.2011 tried to illegally evict and occupy the suit property. The first respondent filed written statement on 13.12.2012 and is contesting the suit. The petitioner let in evidence and the suit is posted for further evidence on behalf of the petitioner. The petitioner filed present application I.A.No.1361 of 2014 for issuing summons to his sister Devi @ Rajeswari.

3. According to the petitioner, his sister Devi @ Rajeswari was maintaining the suit property from November 2011 to March 2012. During that time, she gave a police complaint against the respondents and therefore, she has to be examined.

4. The respondents filed counter affidavit and contended that the petitioner has not pleaded the same in the plaint and therefore, he cannot let in evidence without pleadings.

5. The learned Judge considering the averments made in the

affidavit, counter affidavit and materials available on record, dismissed the application, holding that the petitioner is not entitled to let in evidence without pleadings.

6. Against the said order of dismissal dated 01.12.2014 made in I.A.No.1361 of 2014, the present Civil Revision Petition is filed by the petitioner/plaintiff.

7. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondents and their names are printed in the cause list, there is no representation on behalf of the respondents either in person or through counsel.

8. The petitioner filed suit on 18.10.2011 on the ground that the respondents are trying to illegally take possession of the suit property on 06.10.2011. It is for the petitioner to prove this contention by letting in acceptable evidence. The petitioner is now seeking to examine his sister Devi @ Rajeswari in respect of the incident that happened during the period between November 2011 and March 2012, which is subsequent to filing of the suit. It is well

settled law that without pleadings, evidence cannot be let in.

9. In view of the above facts, the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

08.02.2018

Index:Yes/No

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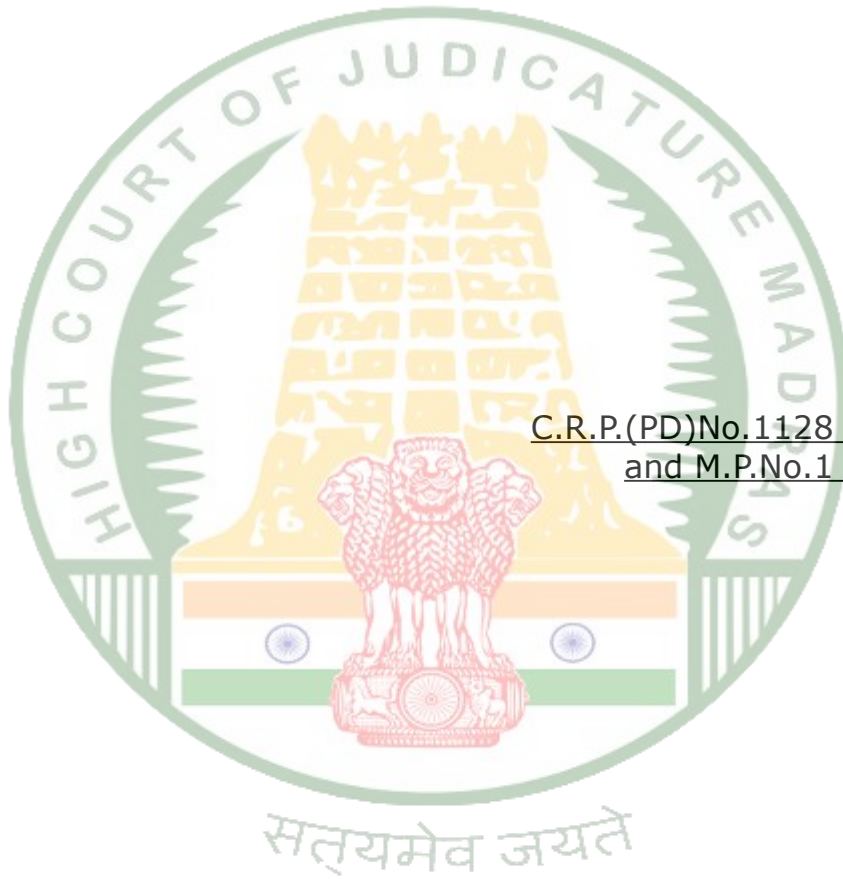
The VIII Assistant City Civil Judge
Chennai.



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V.M.VELUMANI,J.

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08.02.2018

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