

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1436 to 1438 of 2015
and M.P.No.1 of 2015

Kamala alias Kamatchi

.. Petitioner in all
C.R.Ps.

Vs.

Logaiyya

.. Respondent in
all C.R.Ps.

COMMON PRAYER: Civil Revision Petitions filed Under Article 227 of the Constitution of India, against the fair and decretal order dated 09.01.2015 made in I.A.Nos.476 to 478 of 2014 in O.S.No.22 of 2010 on the file of the Subordinate Court, Tambaram.

For Petitioner : Mr.S.Illamuhil

For Respondent : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal order dated 09.01.2015 made in I.A.Nos.476 to 478 of 2014 in O.S.No.22 of 2010 on the file of the Subordinate Court, Tambaram.

2.The issues and the parties involved in all the Civil Revision Petitions are one and the same and therefore, they are disposed of by this common order.

3.The petitioner is plaintiff and respondent is the defendant in O.S.No.22 of 2010 on the file of the Subordinate Court, Tambaram. The petitioner filed the said suit for declaration that petitioner is owner of the 'B' Schedule property based on the Will dated 31.05.2002 executed by her mother, delivery of possession and for permanent injunction. The respondent filed written statement on 25.10.2010. Both the parties have let in evidence and closed their side. When the suit was posted for arguments, the petitioner filed three applications, I.A.Nos.476 to 478 of 2014 to reopen the main case for examination of P.W.1, for an order for filing the documents as detailed in the petition and to recall P.W.1 for continuation of chief examination for the purpose of marking documents by reopening the main suit. According to the petitioner, during cross examination by the learned counsel for the respondent, certain questions were put about her stay in abroad and her capacity to put up construction and in the cross examination of D.W.1, he denied settlement deed in favour of his wife and property tax and other

documents. In view of the same, it is necessary to file documents to substantiate her claim.

4.The respondent filed common counter affidavit and contended that the documents now sought to be marked was available with the petitioner even before filing of the suit. She has not disclosed these documents in the plaint and not given any reason for not filing the said documents earlier. The present application is filed only to fill in lacuna and prayed for dismissal of the applications.

5.The learned Judge considering the averments in the affidavit, counter affidavit and the fact that on earlier occasion, the petitioner has filed applications for recalling P.W.1 and the same was allowed and after evidence on behalf of the respondent, evidence was closed, dismissed all the three applications.

6.Against the said orders of dismissal dated 09.01.2015 made in I.A.Nos.476 to 478 of 2014 in O.S.No.22 of 2010, the petitioner has come out with the present Civil Revision Petitions.

7. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

8. From the materials on record, it is seen that the documents now sought to be marked are pre-suit documents. The petitioner has not mentioned those documents in the plaint and has not filed and marked those documents when she was examined. She has not given any reason for not filing those documents earlier before when was examined as P.W.1 or after she was recalled and further examined. The reason given by the petitioner that certain questions were put to her during cross examination which necessitates her to file the present application for filing the documents is not a valid ground. On the other hand, the contention of the respondent that present applications are filed only to fill in lacuna has considerable force. In the circumstances, there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 09.01.2015 made in I.A.Nos.476 to 478 of 2014 in O.S.No.22 of 2010.

9.In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.03.2018

Index :: Yes/No

gsa

To

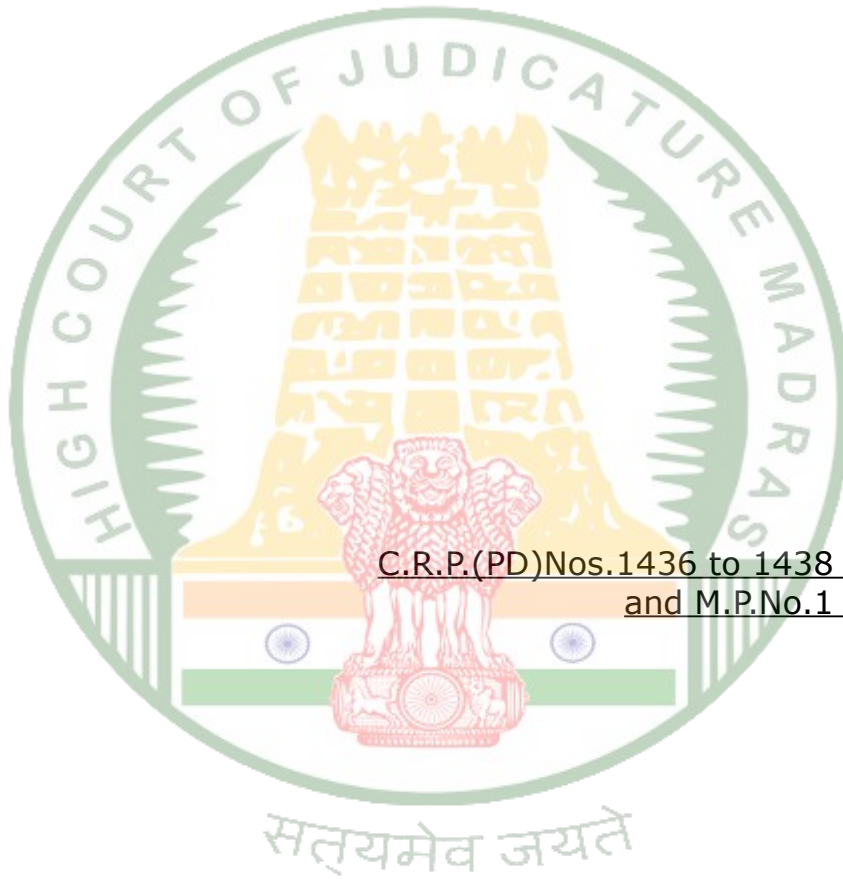
The Subordinate Judge,
Tambaram.



WEB COPY

V.M.VELUMANI,J.

gsa



C.R.P.(PD)Nos.1436 to 1438 of 2015
and M.P.No.1 of 2015

WEB COPY

05.03.2018