

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

The HONOURABLE **MS. JUSTICE V.M.VELUMANI**

C.R.P.(PD)No.1935 of 2015
and M.P.No.1 of 2015

1. Malik Pyrose
2. Parasana Parveen .. Petitioners

Vs.

1. Malligabee @ Asanmabee
2. Minor Basha
(Represented by Malligabee) .. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.02.2015 made in I.A.No.644 of 2014 in O.S.No.66 of 2006 on the file of the Additional District Munsif Court, Cheyyar.

For Petitioners : Mr.D.Murthy

For Respondents : Mr.P.Mani

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 03.02.2015 made in I.A.No.644 of 2014 in O.S.No.66 of 2006 on the file of the Additional District Munsif Court, Cheyyar.

2. The petitioners are the plaintiffs and respondents are the defendants in O.S.No.66 of 2006 on the file of the Additional District Munsif Court, Cheyyar. The petitioners filed the said suit for declaration that marriage conducted between their father and first respondent on 15.05.2000 is null and void, declaration of title of the petitioners for the suit property and injunction. The respondents filed written statement on 17.12.2006 and are contesting the suit. The petitioners took out the witness summons to one Patel of Periya Pallivasal Sunnath Jamiya Masjid at Vandavasi. The said Patel by name Janab M.K.Ibrahim along with Janab KAW Abdulkadhar Sheriff, Muthavalli and Janab KMA Kamaluddin, Treasurer, sent a letter dated 27.11.2013 stating that M.K.Ibrahim is aged about 80 years and is suffering from various ailments and cannot move from his house. He sent two documents along with his letter. The petitioners filed I.A.No.644 of 2014 under Order XXVI Rule 9 C.P.C. for appointment of an Advocate Commissioner to record the evidence of the said Patel.

3. According to the petitioners, only if the said Patel is examined, it will reveal that who are the defendants and true facts will come to the knowledge of the Court.

4. The respondents filed counter affidavit and opposed the said application and contended that apart from the said Patel, there will be a Muthavalli to manage the Jamad and five more persons appointed as executive members to govern the matters of the Jamad. Any one of the Executive Committee members in the Jamad can be summoned to give documents maintained by the Jamad.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application holding that any official of the Jamad can be examined with regard to the documents maintained in the Periya Pallivasal Sunnath Jamiya Masjid at Vandavasi.

6. Against the said order of dismissal dated 03.02.2015 made in I.A.No.644 of 2014 in O.S.No.66 of 2006, the present Civil Revision Petition is filed by the petitioners.

7. Heard the learned counsel for the petitioners as well as the respondents and perused the materials available on record.

8. From the materials available on record, it is seen that the petitioners want to examine the Patel of Periya Pallivasal Sunnath Jamiya Masjid at Vandavasi, with regard to the marriage conducted between their father and first respondent on 15.05.2000, which is recorded in the said Jamad. In view of the same, any of the officials from the said Jamad can be examined with regard to marriage record. It is not necessary only to examine the said Patel with regard to the register maintained by Periya Pallivasal Sunnath Jamiya Masjid at Vandavasi.

9. The learned Judge considering the facts in proper perspective, rightly dismissed the application. There is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 03.02.2015.

10. In the result, the Civil Revision Petition is dismissed. As the suit is of the year 2006, the learned Judge is directed to dispose of the suit in O.S.No.66 of 2006 as expeditiously as possible, in any event,

not later than three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

01.02.2018

Index:Yes/No

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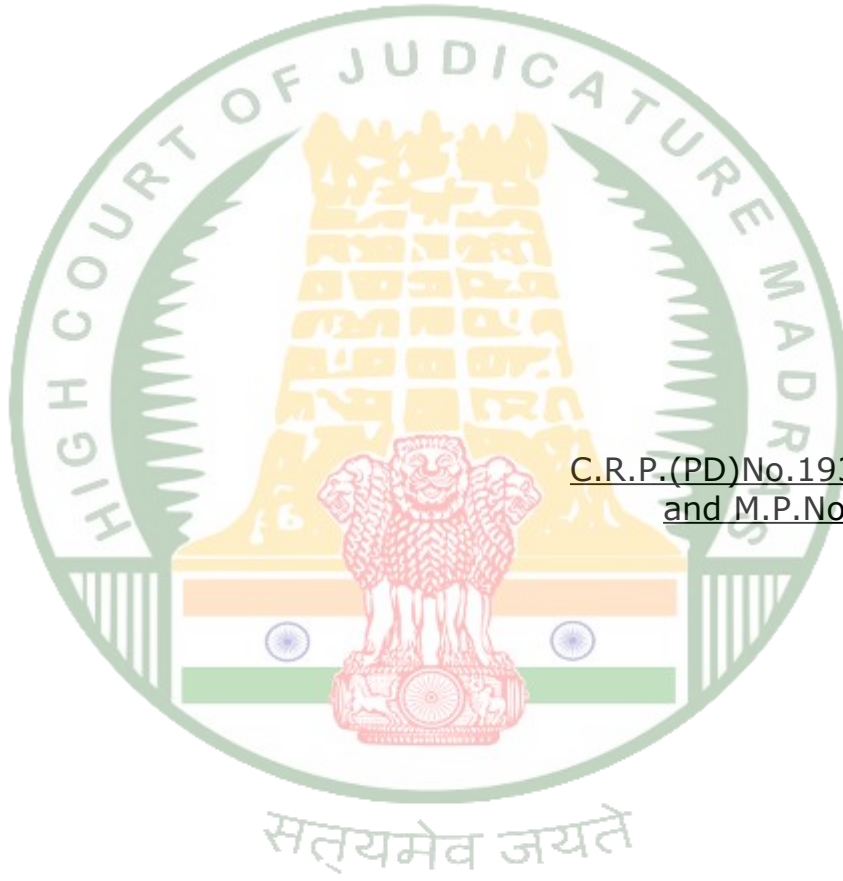
The Additional District Munsif
Cheyyar.



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V.M.VELUMANI,J.

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