

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4971 & 4972 of 2014
& M.P.No.1 of 2014

Ponnusamy

.. Petitioner
in both CRPs.

Vs.

1.Lakshmi

2.The District Collector,
Collectorate,
Tiruppur.

3.The Tahsildar
Taluk Office,
Kangayam-638 701
Tiruppur District.

.. Respondents
in both CRPs.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 28.10.2014 made in I.A.Nos.1534 and 1535 of 2014 in O.S.No.303 of 2012 on the file of the District Munsif Court, Kangayam.

(in both CRPs.)
For Petitioner

: Mr.V.Iyyappan
for Mr.M.Guruprasad

For R1

: Mr.R.Vinoth Raja
for Mr.N.Manokaran
Caveator Counsel.

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decretal order dated 28.10.2014 made in I.A.Nos.1534 and 1535 of 2014 in O.S.No.303 of 2012 on the file of the District Munsif Court, Kangayam.

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

3. The petitioner is the 3rd defendant, 1st respondent is the plaintiff and respondents 2 & 3 are defendants 1 & 2 in O.S.No.303 of 2012, on the file of the District Munsif Court, Kangayam. The first respondent filed the said suit for declaration, that the first respondent, petitioner and defendants 4 and 5 are the only legal heirs of deceased Nachimuthu Gounder. The petitioner and defendants 4 and 5 filed written statement and are contesting the suit. The parties have let in evidence and closed their side. The suit was posted for arguments. At this stage, the petitioner filed two applications in I.A.No.1534 of 2014 and I.A.No.1535 of 2014 under Section 151 of C.P.C. to reopen the case of the defendants

and to recall DW1 and to mark documents. According to the petitioner, he was able to get copies of some important documents, only at the time of filing of applications. The respondents filed counter affidavit in I.A.No.1534 of 2014 and adopted the same in I.A.No.1535 of 2014 and opposed both the applications.

4. The learned judge considering the averments made in the affidavit and counter affidavit, dismissed both the applications on the ground that the petitioner has not furnished details of the documents sought to be marked.

5. Against the said order of dismissal dated 28.10.2014 made in I.A.Nos.1534 and 1535 of 2014, the present Civil Revision Petitions are filed by the petitioner.

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

7. The suit was posted for arguments on 01.08.2014 and the petitioner has filed the present applications on 11.10.2014. Though the petitioner and defendants 4 and 5 have common defence, they

engaged separate advocates and filed separate written statements as though they are contesting the suit independently, defendants 4 and 5 have filed similar applications in I.A.Nos.1174 to 1177 of 2014 to recall P.W.1 and re-open the case of defendants and those applications were dismissed.

8. From the impugned order, it is seen that the Learned Judge held that the petitioner has filed the present applications only at the instigation of the defendants 4 and 5. If the petitioner's intention is bonafide, he would have furnished the details of the documents in the affidavit itself and held that the petitioner has filed applications only to drag on the proceedings and the intention of the petitioner is not bonafide.

9. In the circumstances, I hold that the learned Judge has considered all the facts in proper perspective and dismissed the applications by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 28.10.2014 made in I.A.No.1534 and 1535 of 2014 in O.S.No.303 of 2012.

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

Index: Yes/No

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To

The District Munsif,
Kangayam.

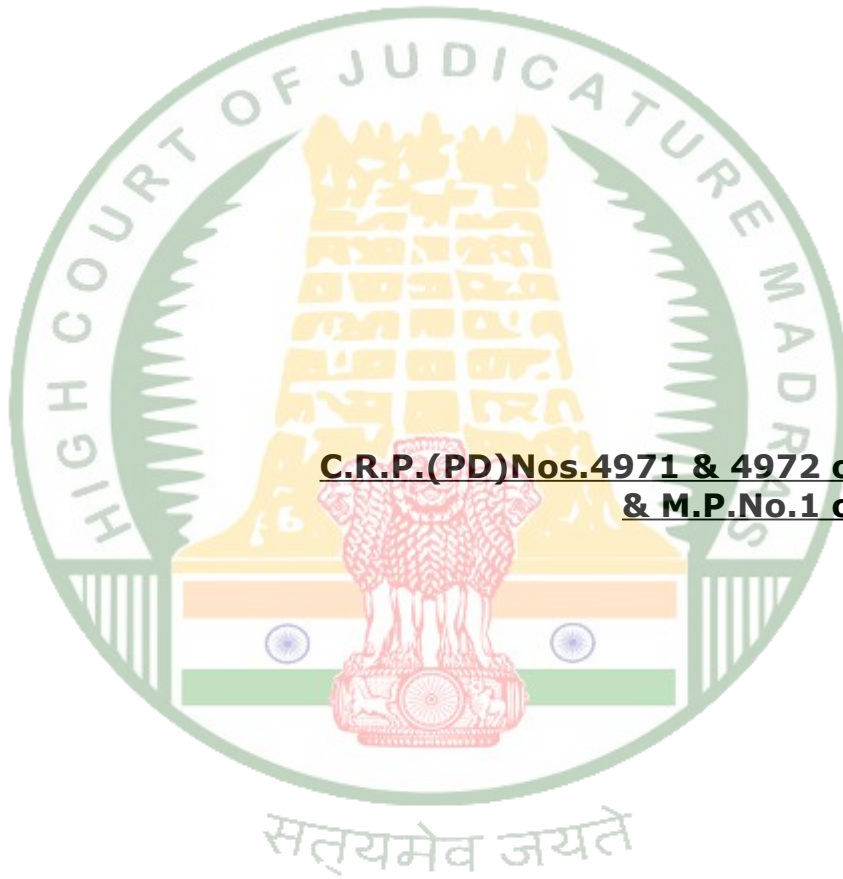
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V.M.VELUMANI,J.

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