

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.30 of 2018
and
CMP. No.81 of 2018

T. Khaja Moideen

.. Petitioner

Vs

1.Neelavathy Ammal
2.Selvi

.. Respondents

PRAYER: This Civil Revision Petition is filed under Article 115 of the Code of Civil Procedure, to set aside the fair and decretal order dated 10.11.2017 passed in I.A.No.1123 of 2016 in O.S.No.370 of 2004 on the file of the District Munsif Court, Chengalpattu.

For Petitioner : Mr.Guru Raj for
Mr.Khaleel Ahamed

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 10.11.2017 passed in I.A.No.1123 of 2016 in O.S.No.370 of 2004 by the learned District Munsif, Chengalpattu.

2.The learned counsel for the petitioner submits that the

petitioner has filed suit in O.S. No.370 of 2004 for permanent injunction. The aforesaid suit is posted for arguments. At this stage, the present application has been filed by the petitioner/plaintiff to examine one Mr.Yesumarian, Advocate, Chengalpattu for further evidence on his side and to record the facts about the evidence of DW1. The said application was erroneously dismissed by the Court below. Therefore, the present civil revision petition is filed by the petitioner before this Court.

3.According to the learned counsel for the petitioner, that the Court below has failed to consider the fact that Mr.Yesumarian, Advocate, Chengalpattu who constructed a house for the petitioner and who is acquainted with the facts of the case and the suit property. Therefore, he is necessary witness to be examined him in the aforesaid suit.

4.It is clear from the facts that the defendant's side evidence was concluded and posted for petitioner/plaintiff's arguments on 16.02.2015, and from 16.02.2015 till 03.10.2016, the said case has been adjourned for several times. Subsequently, On 03.10.2016, I.A. No.1123 of 2013 has been filed by the petitioner to protract the proceedings in the aforesaid

suit. Therefore, the Court below has rightly dismissed the said application.

5. In view of the reasons stated in the order passed by the Court below. No prima facie case is made out. Therefore, this Court is not inclined to interfere with the order passed by the Court below. Accordingly, the Civil Revision Petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

08.01.2018

Index: Yes/ No
Internet : Yes/No
Speaking Order/Non Speaking Order

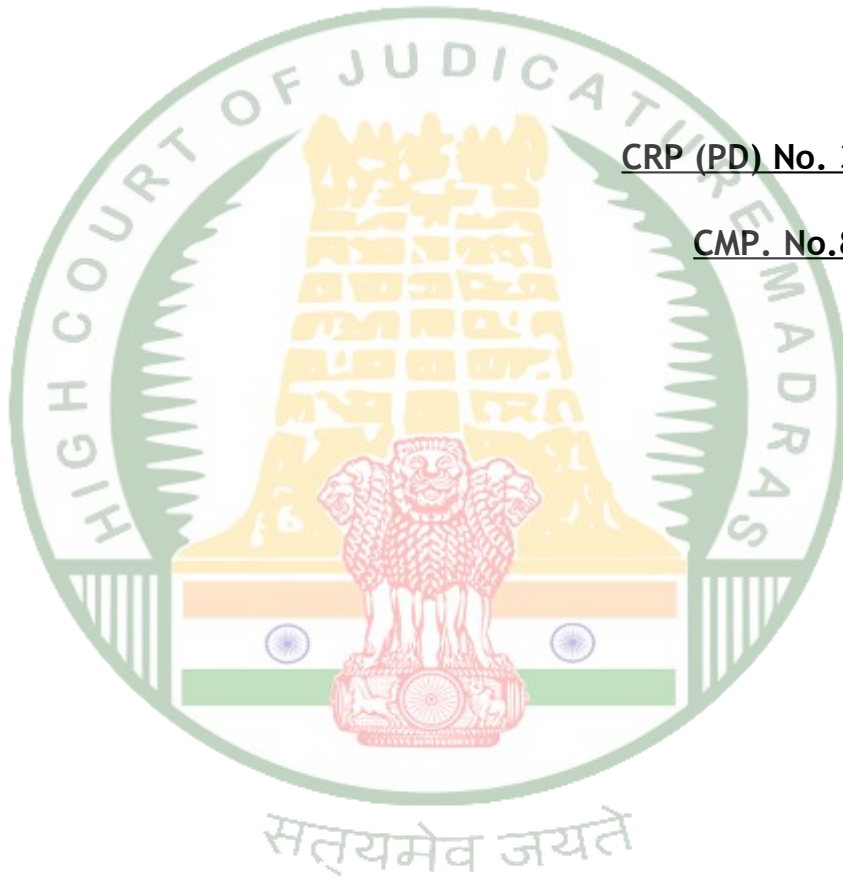
To
The District Munsif,
Chengalpattu.

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D. KRISHNAKUMAR J.,

RKP



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