

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.349 of 2018

and

C.M.P.No.1856 of 2018

1.S.M.Samiathal
2.S.M.Balasubramani
3.S.M.Sathya

..Petitioners

Vs.

1.C.Saradhamani
2.C.Mangayarkarasi Mythili Devi

..Respondents

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 24.08.2017 made in I.A.No.519 of 2017 in O.S.No.88 of 2011 on the file of the learned Sub Court, Perundurai by allowing this Civil Revision Petition.

For petitioners :Mr.N.Manoharan

ORDER:

The respondent has filed the suit in O.S.No.88 of 2011 on the file of the Subordinate Judge, Perundurai, for cancellation of sale deed dated 26.05.2008 registered in favour of the 4th defendant and consequential permanent injunction. The 4th defendant has filed the written statement on 03.08.2012, disputing the claim of the plaintiff. The trial was commenced and the 4th respondent was examined as DW1 on 30.10.2014. Due to his ailments, thereafter, the evidence of D.W.1 was eschewed.

2. The 4th defendant has filed I.A.No.34 of 2014 to set aside the order dated 08.12.2014 in eschewing the evidence of D.W.1. Pending , the said application in I.A.No.34 of 2003, 4th defendant died, the said petition was dismissed on 11.12.2015, as petitioner reported dead and the L.Rs were granted liberty to file this petition after getting impleaded in the main suit. Thereafter, the petitioner has filed the present application before the Court below, for the same prayer, which was dismissed. Hence, the present Civil Revision has been filed.

3. The learned counsel for the petitioner would submit that if the said application is allowed, no prejudice would cause to the respondent.

4. On perusal of the order passed by the Court below, the earlier application was disposed of with liberty to file appropriate application to implead the legal heirs of the 4th defendant. The above order was passed in the year 2015, the petitioner has filed the present application in the year 2017 for the same prayer, which already dismissed in I.A.No.34/2003. Further, there is no reason stated in the affidavit, for the delay in filing the said application, at the stage of arguments. Therefore, there is no infirmity or illegality in the order passed by the Court below.

5. In fine, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

09.02.2018

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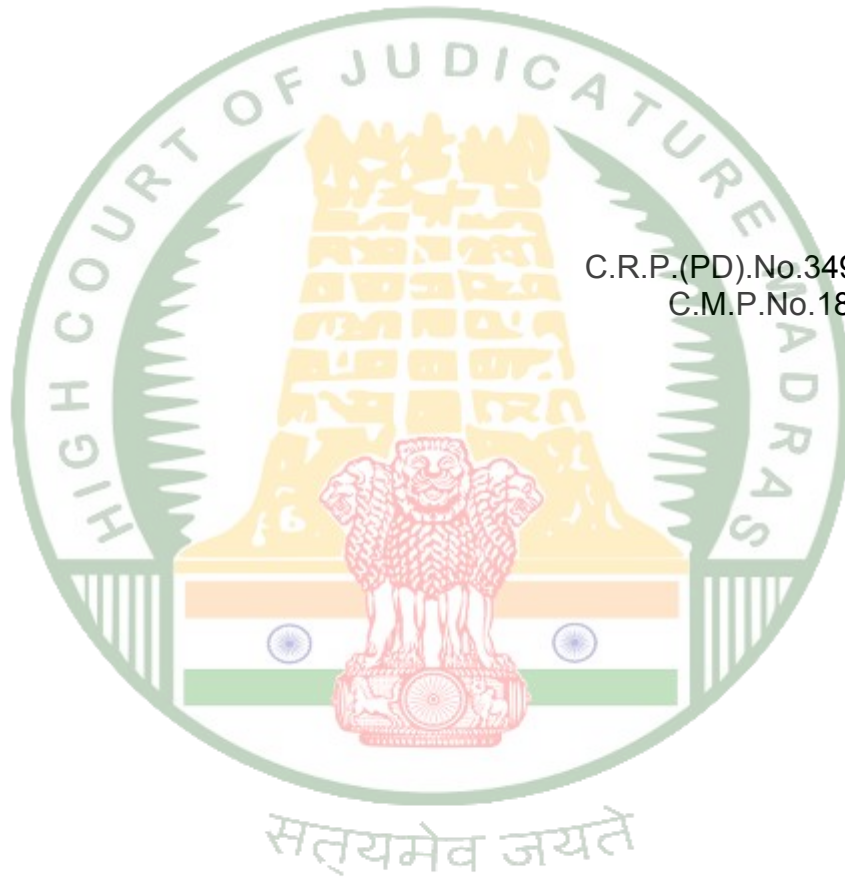
To
The Sub Court,
Perundurai



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D.KRISHNAKUMAR. J,

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