

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.68 of 2018
and CMP.No.281 of 2018

1.S.Selvam Padaiyatchi

2.M/s.Padaiyatchi Ookkam

A firm rep. by its Managing Partner,
S.Selvam Padaiyatchi,
Door No.56 to 59,
Ramasamy Gounder Lay-out,
Thadagam Road, R.S.Puram Post,
Coimbatore 641 002.

.. Petitioners

Vs

1.Periya Sadaiyapan @ K.Sadaiyapan

2.Chinna Sadaiyapan

3.S.Jeganathan

4.S.Jegathiswari

5.S.Priya

6.S.Suriya

7.The Corporation Commissioner,
Coimbatore Municipality Corporation,
Big Bazzor Street, Coimbatore.

.. Respondents

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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the orders passed by Principal District Judge, Coimbatore I.A.No.203 of 2017 in Trop No.76/2017.

For Petitioners

: M/s.S.Selvam Padaiyatchi
Petitioner in person

ORDER

According to the revision petitioners, the respondents have filed a suit in OS.No.321 of 2013 on the file of the I Additional District Judge, Coimbatore. The revision petitioners have also filed a petition in Tr.OP.No.76 of 2017 on the file of the Principal District Judge, Coimbatore under Sections 24 and 151 of the Civil Procedure Code seeking to transfer the aforesaid suit to any other court in Coimbatore. According to the revision petitioners, the respondents have filed a suit in OS.No.321 of 2013 for the relief of declaration and permanent injunction against the revision petitioners herein and respondents 4 to 7 herein. In the aforesaid suit, the revision petitioners being the fourth and fifth defendants filed written statement. Issues have been framed and case was posted for trial. The revision petitioners filed a petition under Order 7 Rule 11 of the Civil Procedure Code and the same was returned and advised him to file an appeal and the revision petitioners also filed an appeal in Sr.No. before the first Additional District Court, Coimbatore. During the examination of witness,

without any cross examination, the plaintiff side evidence was closed and posted for defendant side evidence. Therefore, the revision petitioners filed an application under Order 9 Rule 13 of the Civil Procedure Code. Without numbering or returning the application, the suit was posted for argument. Thereafter, the Presiding officer has posed a question "are you blaming the court?". Therefore, the revision petitioners have filed the aforesaid transfer OP. The Principal District Judge has considered the petition filed by the revision petitioners by making allegations levelled against the Presiding officer. By considering the decision in the case of Amit Agarwal Vs. Atul Gupta reported in 2015 (3) All LJ 231 (All) and in the case of Ratanlal Vs. Suresh Kumar reported in 1987 MP.178, dismissed the application by holding that no specific allegation has been stated and the petition has been filed only on the basis of apprehension. On perusal of the nature of the allegation of the revision petitioners in the copy of the petition filed before this Court, the revision petitioners have made allegation that the application filed under Order 7 Rule 11 was returned and advised to file an appeal and the said appeal is not yet numbered. The revision petitioners have also filed a memo before the court below mentioning about the SR stage of the appeal before the High Court.

The plaintiff side witnesses were examined in the aforesaid suit and posted for defendant side evidence. Then the revision petitioners have filed a reopen and recall petition. Therefore when this application was received by the court below, the presiding officer has angrily made the statement. Therefore, on reading the aforesaid statement of the revision petitioners, no particular has been furnished in this regard. The revision petitioners have simply given vague averments without furnishing any particulars. Merely on general allegation, this Court cannot entertain the grievance of the petitioner. Further, without any materials and without proper statement in the affidavit, allegation against the Presiding officer could not be entertained by this Court. Therefore, this Court is not inclined to entertain the Civil Revision Petition.

2. However, the manner in which the application is filed by the revision petitioners is required to be imposed cost. But taking into consideration that revision petitioners being a party in person before this Court, taking lenient view, this Court is not inclined to impose cost on the revision petitioners.

3. The Civil Revision Petition fails and the same is

dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

09.01.2018

Speaking/Non-speaking order

Index :Yes/No

Internet:Yes/No

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To

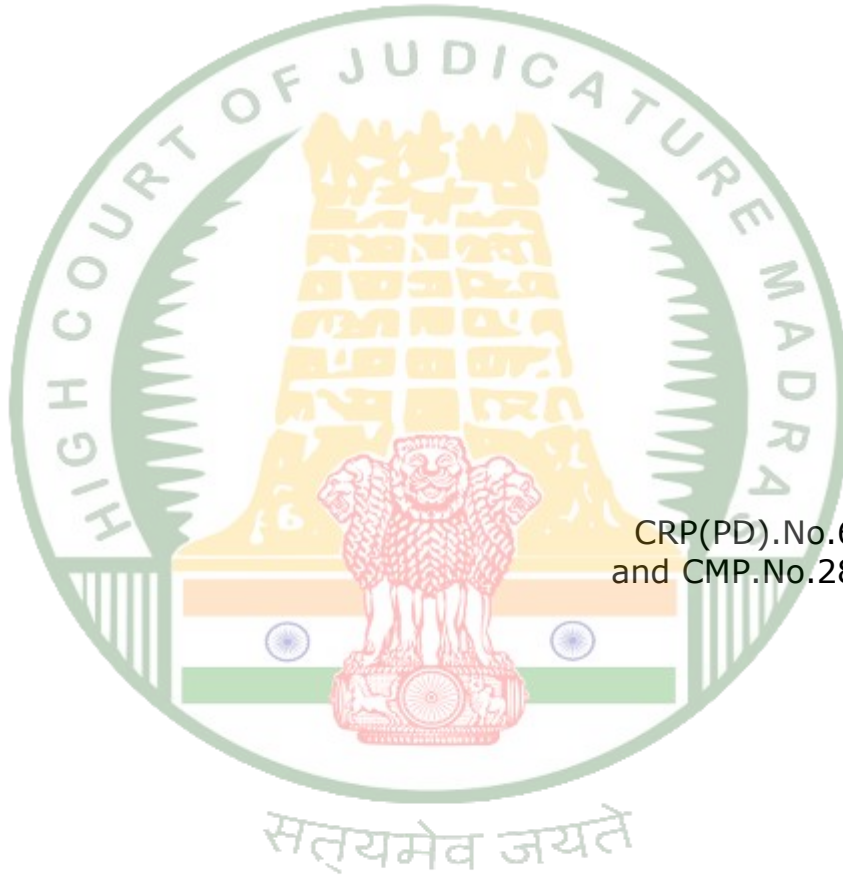
The Principal District Judge,
Coimbatore.



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D. KRISHNAKUMAR J.,

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