

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.733 of 2018
and CMP.No.3732 of 2018

Kanchana

.. Petitioner

Vs

1.Sundaram

2.Santhosh

.. Respondents

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned District Munsif, Omalur dated 09.02.2018 made in IA.No.1281 of 2017 in OS.No.25 of 2007.

For Petitioner : Mr.V.Prakash Babu

ORDER

According to the revision petitioner, the respondents have filed a suit in OS.No.25 of 2007 on the file of District Munsif, Omalur for the declaration and permanent injunction against one Rajammal, the revision petitioner and others. The said Rajammal had filed the above suit in respect of the properties mentioned in OS.No.25 of 2007 as

against all her children including the respondents herein for the relief of partition and for the relief of setting aside the partition deed dated 10.04.2002 as null and void. The same is posted on 22.02.2018 for trial. Earlier, the said Rajammal had filed an application in POP.No.77 of 2007 for declaration and the same was dismissed on 30.09.2008. Against the same, a Civil Miscellaneous Petition in CMA.No.1038 of 2009 filed before this Court and the same is pending. Subsequently, the aforesaid Rajammal died on 02.05.2017. The revision petitioner has filed an application in CMA.No.1038 of 2009 to transpose herself as the appellant in the above CMA and the same is still pending. According to the revision petitioner, both the issues involved in POP.No.77 of 2007 and OS.No.25 of 2007 are one and the same and therefore filed the present application in IA.No.1281 of 2017 in OS.No.25 of 2007 to stay the proceedings in OS.No.25 of 2017 on the file of the District Munsif Court, Omalur until disposal of the above CMA. The said application was dismissed by the court below. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. Heard the learned counsel for the revision petitioner and perused the materials available on record.

3. On perusing the record, the suit in OS.No.25 of 2007 was filed in the year 2007 and the POP was also filed in the year 2007. By order dated 30.09.2008, the POP was dismissed. At this stage, the learned counsel for the revision petitioner submits that the revision petitioner will take steps for getting disposal of the CMA and seeks permission to club both the suit and the POP for joint trial. However, it is open to the revision petitioner to approach the court below for any subsequent order passed in the above CMA, if necessary. Therefore, there is no error or illegality in the order passed by the court below and the Civil Revision Petition is liable to be dismissed.

4. The Civil Revision Petition is dismissed with above liberty. Consequently, the connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

27.02.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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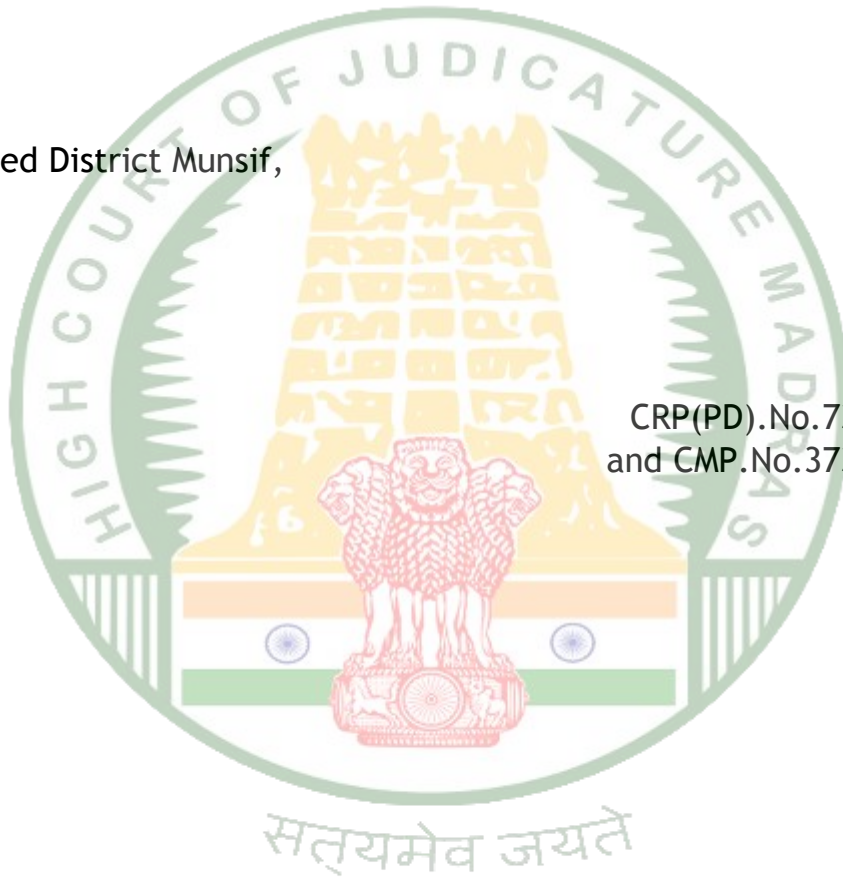
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D. KRISHNAKUMAR J.,

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To

The learned District Munsif,
Omalur



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