

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.04.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**CRP(PD).No.99 of 2018 &
C.M.P.No.512 of 2018

K.E.Fathima

..

Petitioner

vs.

1.K.E.M.Tameem Ansari
2.S.M.Sainam Pillai

...

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.09.2017 made in I.A.No.11933 of 2017 in O.S.No.3385 of 2016 on the file of XVIII Assistant, City Civil Court, Chennai.

For Petitioner

... M/s.M.R.Sheik Abdul Rahim

For Respondents

...Mr.K.J.Parthasarathy

ORDER

This Civil Revision Petition has been filed by the petitioner against the order passed by the trial Court in I.A.No.11933 of 2017 in O.S.No.3385 of 2016 on the file of XVIII Assistant Judge, City Civil Court, Chennai.

2. The revision petitioner filed a suit before the trial Court in O.S.No.3385 of 2016 for partition against the respondent. Originally, he filed the suit based on the sale deed dated 07.10.1966 purchased by her father to an extent of 782 sq.ft.

3. The respondent filed a written statement. After commencement of trial, the petitioner filed a petition to amend the schedule of property to an extent of 1216 sq.ft. instead of 782 sq.ft. After enquiry, the trial Court has dismissed the application. Therefore, the revision petitioner filing this revision before this Court.

4. The learned counsel for the petitioner submitted that she was in out of possession and she was not aware of the actual extent and she has mistakenly mentioned the extent as 782 sq.ft. instead of 1216 sq.ft.

5. The learned counsel for the respondent would contend that the sale deed mentioned in the plaint itself is only to an extent of 782 sq.ft. The revision petitioner has not filed any other document to show that she is entitled to a larger extent, as claimed in the application to

amend the plaint where as the respondent has produced the copy of the sale deed shown in the plaint.

6. A perusal of the sale deed produced by the respondent clearly shows that the extent mentioned in the sale deed is 782 sq.ft and not 1216 sq.ft. Under the said circumstances, this Court finds that there is no infirmity or irregularity in the order passed by the trial Court.

7. The Civil Revision Petition is dismissed with liberty to file a fresh application, in case if she is able to secure the document for a larger extent to show that his father purchased the larger extent as claimed in the application to amend the plaint before the trial Court. The trial Court is directed to proceed with such an application if he filed, in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

सत्यमेव जयते

12.04.2018

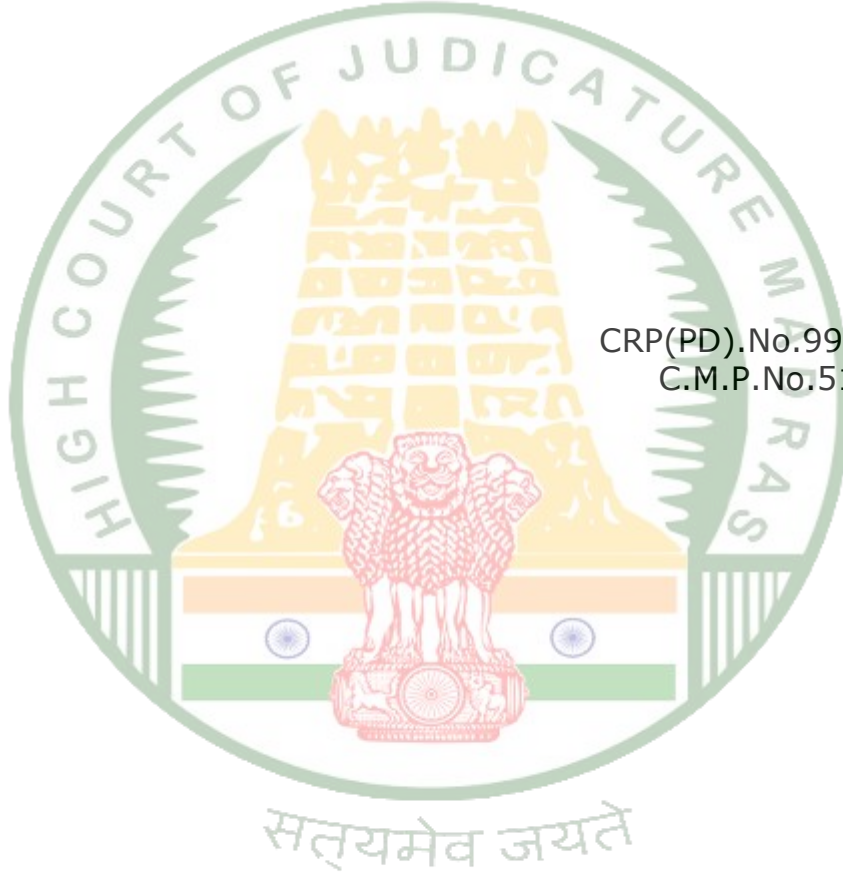
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To

The XVIII Assistant Judge,
City Civil Court,
Chennai.

P.VELMURUGAN.J,
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