

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

Civil Revision Petition (PD) No.2742 of 2018

M.Jayakumar

.. Petitioner

Vs.

1. N.Sudha

2. N.Niveditha

3. N.Kirthika

4. N.Navaneethamurugan

.. Respondents

Petition under Section 115 of the Civil Procedure Code filed against the order dated 11.7.2018 made in I.A.No.4705 of 2018 in O.S.No.1462 of 2011 on the file of the XIV Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.Baskaran

For Respondent-4 : Mr.T.Kannan

For Mr.K.Thenrajan

ORDER

This civil revision petition has been filed against the order dated 11.7.2018 made in I.A.No.4705 of 2018 in O.S.No.1462 of 2011 on the file of the XIV Assistant City Civil Court, Chennai.

2. Heard Mr.S.Baskaran, learned counsel appearing for the petitioner and Mr.T.Kannan, learned counsel appearing for the fourth respondent.

3. It appears that the deceased second defendant has filed a counter claim in the suit filed by the petitioner and the same was objected to by the petitioner. The respondents, who are the legal heirs of the deceased second defendant, are contesting the suit. By the impugned order, the trial Court dismissed the application filed by the petitioner to reject the counter claim. Hence, the above revision.

4. The only ground on which the petitioner has filed this revision is that a counter claim cannot be made in the suit. But, if there is any case, a counter claim in a suit is maintainable, provided the party who claims substantial relief has to pay Court fee.

5. In view of the above, the revision is disposed of holding that the counter claim of the respondents shall be entertained provided Court fee is paid. All the contentions are left open to be adjudicated by the parties before the trial Court. No costs. Consequently, CMP No.16123 of 2018 is closed.

24.10.2018.

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To

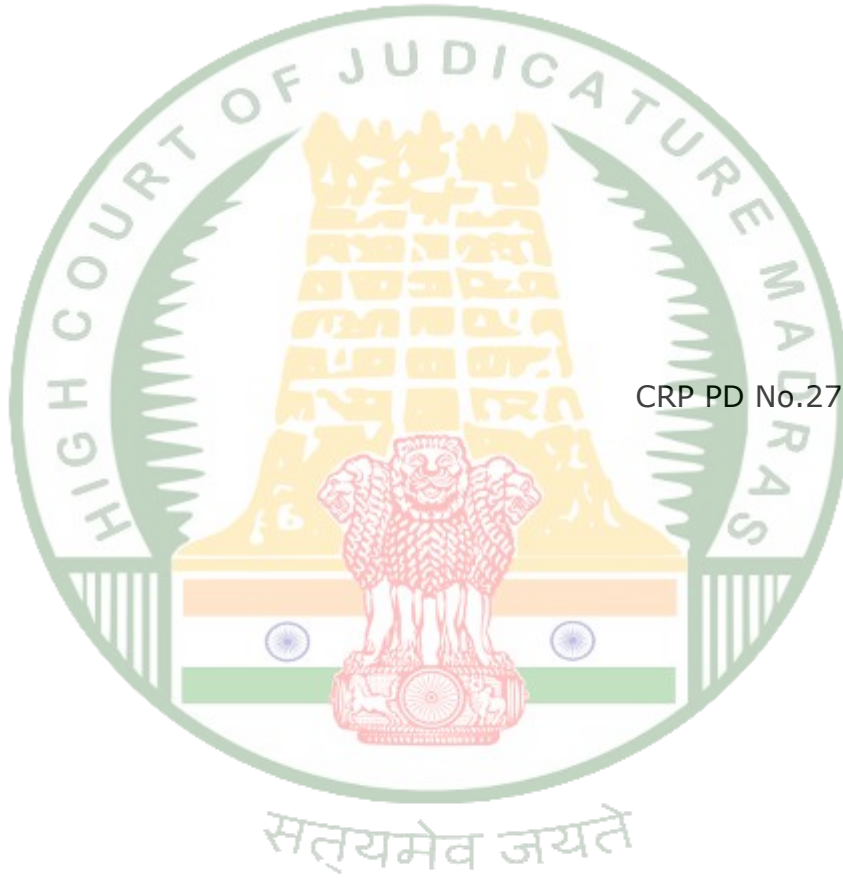
The Registrar
City Civil Court
Chennai



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HULUVADI G.RAMESH,J

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CRP PD No.2742 of 2018.

24.10.2018.

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