

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.R.P.(PD)No.973 of 2018
and C.M.P.No.5202 of 2018

Sakkarapani

...Petitioner

Vs

1. Munusamy
2. Smt.Umamageswari
3. The Tasildhar
Cheiyyur Taluk
Kancheepuram District
4. The District Collector
Kancheepuram District
Kancheepuram.
5. Dilibabu
6. Saravanan (minor)

[Rep.by his mother & natural guardian, 2nd respondent]

...Respondents

Prayer: Civil Revision Petition filed Under Article 227 of the Constitution of India to set aside the order and decretal order dated 21.12.2017 passed in I.A.No.2186 of 2017 in O.S.No.21 of 2015, on the file of the District Munsif Court at Madurantakam by permitting to implead Respondents 5 and 6 as Defendants 5 and 6.

For Petitioner : Mr.R.Thanjan

ORDER

The order under challenge in the present application is the rejection of the application under Order VI Rule 17 C.P.C, seeking to implead the respondents 5 and 6 as defendants 5 and 6 in the suit. It is seen that the defendants 5 and 6 are the minors represented by the 2nd respondent herein.

2.The trial Court had come to a conclusion that such an application to implead cannot be maintained in view of the proviso to Order VI Rule 17 C.P.C, which clearly states that the petitioner requires to establish that in spite of due diligence, he could not make out the application in time. By observing that the written statement was filed on 17.06.2015, wherein the settlement deed in favour of the proposed minor defendants, it is clearly mentioned that the petitioner herein had not made out the application till the trial had commenced. In view of the proviso to Order VI Rule 17, the application came to be rejected.

3.I do not find any infirmity in the order as such and as a matter of fact, the Trial Court has rightly applied the proviso and rejected the

application. Even otherwise, the natural guardian of the proposed defendants 5 and 6 is already a party in the suit proceedings and as such, the interest of the minors could be protected.

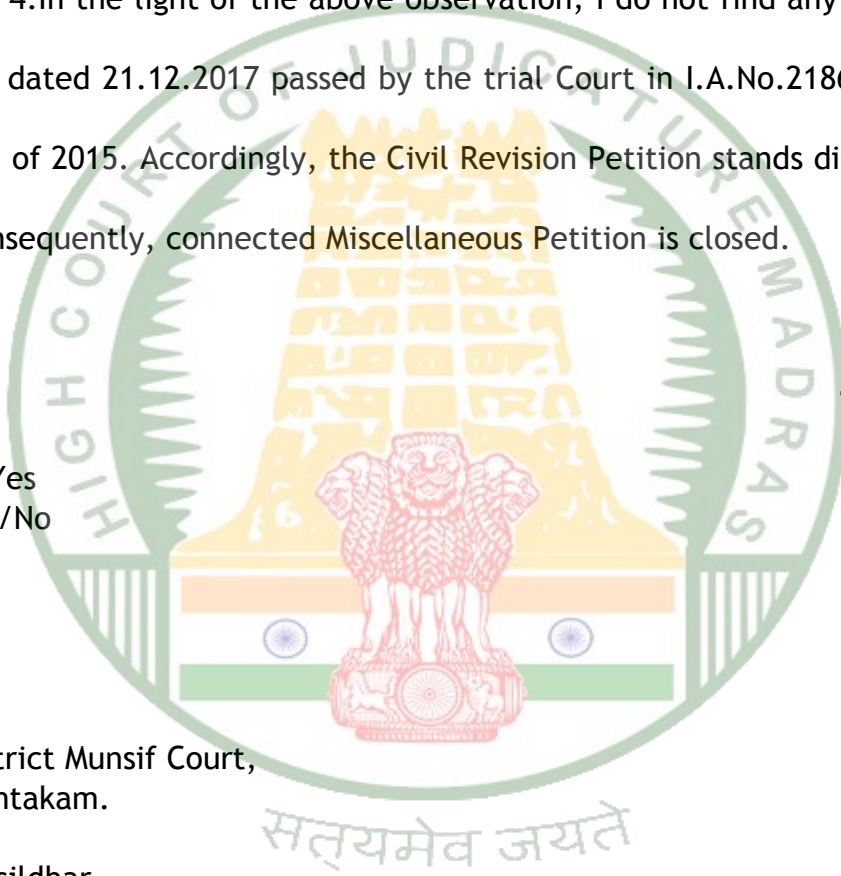
4. In the light of the above observation, I do not find any infirmity in the order dated 21.12.2017 passed by the trial Court in I.A.No.2186 of 2017 in O.S.No.21 of 2015. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.11.2018

Internet:Yes
Index:Yes/No
gsa/mtl

To

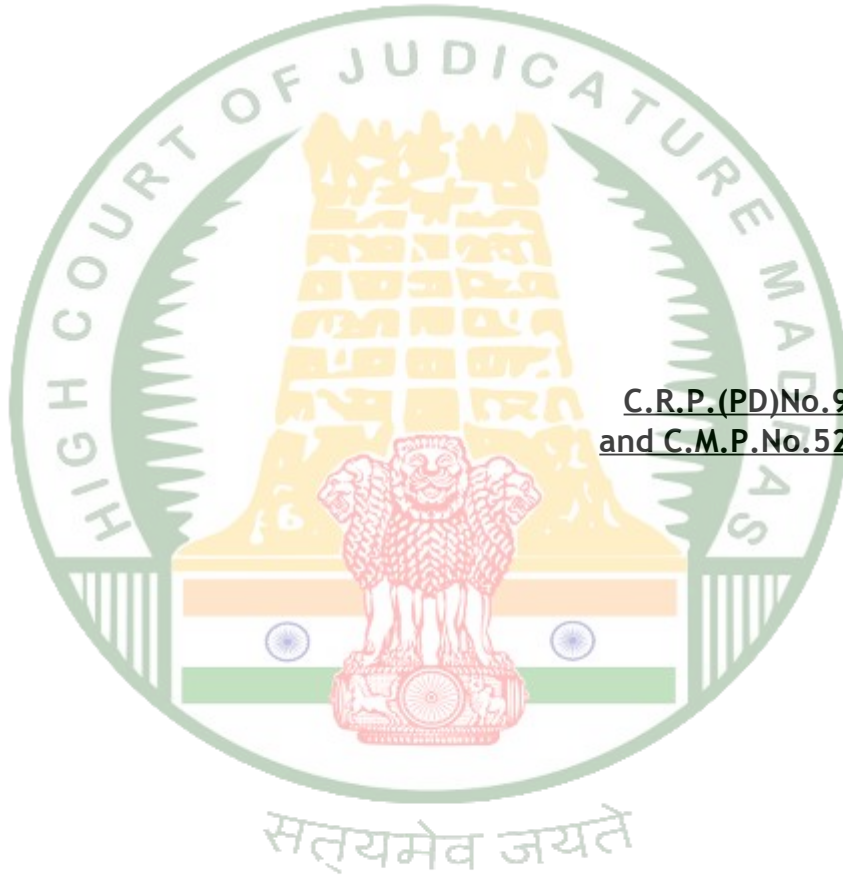
1. The District Munsif Court,
Madurantakam.
2. The Tasildhar,
Cheiyyur Taluk,
Kancheepuram District.
3. The District Collector,
Kancheepuram District,
Kancheepuram.



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M.S.RAMESH, J.

gsa/mtl



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