

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (PD) No.1371 of 2016
and
C.M.P No.7651 of 2016

Annadurai

.. Petitioner

Vs

1. Rajappan
2. Rajendran
3. Madivanan
4. Thangaraj

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 27.01.2016 in Tr.O.P. No. 113 of 2015 on the file of the Principal District Court, Namakkal and pass such further orders.

For Petitioner : Mr. D. Shivakumaran

For Respondents : Mr. T. Dhanyakumar

ORDER

This revision petition arises against the order dated 27.01.2016 in Tr.O.P.No.113 of 2015 on the file of the Principal District Court, Namakkal.

2. The respondents herein have filed Tr.O.P. No. 113 of 2015, under Section 24 of Code of Civil Procedure, before the Principal District Judge, Namakkal seeking to transfer the suit in O.S. No. 149/2008 pending on the file of Sub Court, Namakkal to the Subordinate Court, Rasipuram Taluk. The learned counsel for the petitioner would submit that the petitioner filed a suit in O.S. No.149 of 2008 before the Sub Court, Namakkal, for partition and other reliefs. The respondents have filed the petition seeking to transfer the case to some other court, alleging that the Sub Court, Namakkal is favouring the plaintiff/ petitioner during the examination and on the apprehension that the respondents may not get proper justice before the Sub Court, Namakkal, the transfer petition has been filed. Although the Principal District Judge, Namakkal has observed that the averments of the respondents are baseless and without any materials to substantiate his case, allowed the

application filed by the respondents herein. Challenging the aforesaid order, the petitioner/ plaintiff has filed the present revision before this Court.

3. According to the petitioner, the respondents have not made any specific allegations against the Presiding Officer. In the Transfer Petition, the respondents have merely stated that the Presiding Officer has favoured the plaintiff/ petitioner during cross examination and on the apprehension that the respondents may not get proper justice in the hands of the Presiding Officer, the petition has been filed.

4. On perusal of the affidavit filed by the respondents before the Principal District Judge, it is found that the respondents have not produced any materials to show that the Presiding Officer has acted in a biased manner, favouring the petitioner/ plaintiff. The Principal District Court has also rejected the allegations raised by the respondents, contrary to the conclusion arrived by the learned Judge erroneously allowed the petition. The learned counsel for the petitioner has rightly pointed out that the respondents have sought several adjournments from

09.04.2015, 16.04.2015, 23.04.2015 and on 28.04.2015 the case was adjourned to 29.07.2015, after giving sufficient time. Even on that day, the respondents were called absent and was again adjourned to 12.08.2015. Thereafter, the respondents have filed the Tr. OP No.113 of 2015 for transfer of the suit from the file of the Sub Court, Namakkal to the Sub Court, Rasipuram.

5. In view of the aforesaid facts and in the absence of any materials and the specific allegations against the Presiding Officer, the order dated 27.01.2016 in Tr.O.P. No. 113 of 2015 on the file of the Principal District Court, Namakkal, is set aside.

6. The Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Index : Yes/ No

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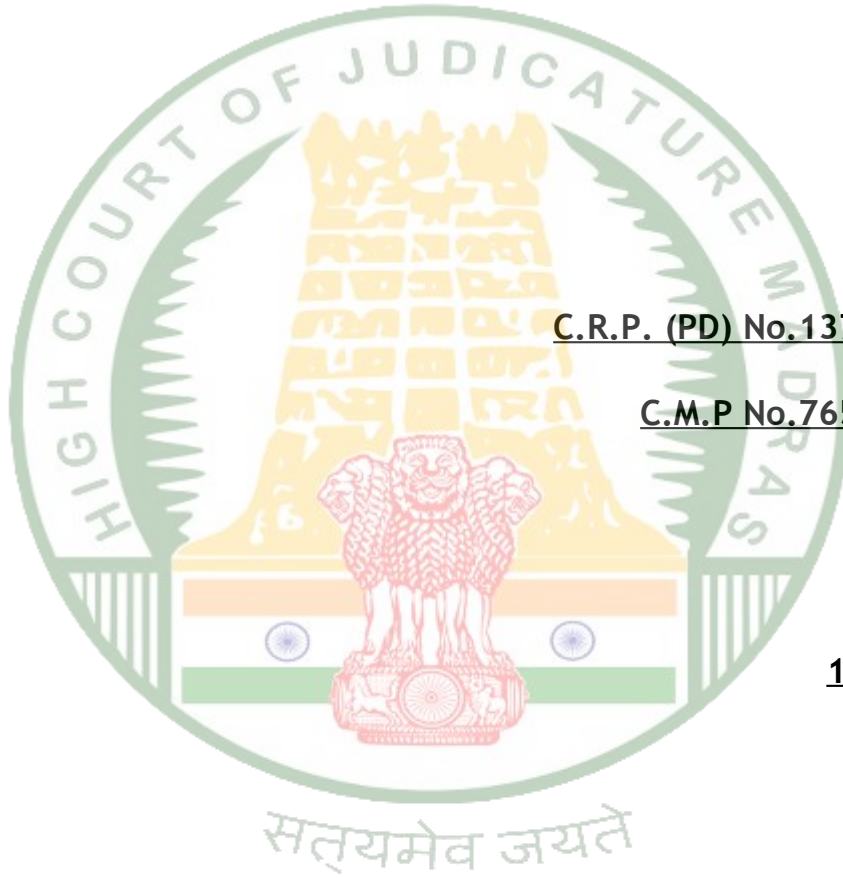
To

The Principal District Court
Namakkal.

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D. KRISHNAKUMAR J.,

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