

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 1531 of 2016
and
C.M.P NO. 8321 of 2016

D. Santhanam .. Petitioner

Vs

1. S. Chandra
2. K. Narayanan
3. Rukmani .. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A. No. 14810/2015 in O.S. No.4490 of 2015 dated 11.04.2016 passed by the learned XVII Assistant Judge, City Civil Court at Chennai and thereby allow the above civil revision petition.

For Petitioner : Mr. R. Narayanasamy

For Respondents : Mr.M. Jaikumar for R1
Mr. S. Saravana Kumar for R2 & R3

ORDER

This revision petition is filed against the fair and decreetal order in I.A. No. 14810/2015 in O.S. No.4490 of 2015 dated 11.04.2016 passed by the learned XVII Assistant Judge, City Civil Court at Chennai.

2. The learned counsel for the petitioner would submit that the petitioner has filed a suit in O.S. No.4490 of 2015, seeking for the relief of specific performance and permanent injunction, against the respondents 2 and 3. In the aforesaid suit, the first respondent has filed an Interlocutory Application in I.A. No.14810/2015 under Order 1 Rule 10(2) of Code of Civil Procedure to implead herself as 3rd defendant in the suit, for adjudication.

3. According to the 1st respondent herein, she purchased the property in D. No. 18/79, Rajamangalam 7th Street, Villivakkam, Chennai -49. The petitioner/ plaintiff is trying to grab her suit property, by furnishing false door number, as described in the schedule. Hence, she is a necessary party in the suit filed by the petitioner herein and that the trial court has rightly allowed her application.

4. According to the petitioner, the 1st respondent is not at all necessary party in the suit. In the schedule, described in the suit, the suit property is shown as D. No.27/27, Rajamangalam 7th Street, Villivakkam, Chennai -49. Whereas the 1st respondent is residing at D. No. 18/79, Rajamangalam 7th Street, Villivakkam, Chennai -49. The learned counsel for the petitioner further submitted that the petitioner will proceed only in respect of the schedule mentioned suit property and not against the 1st respondent's property. In the event of any amendment in the description of the property, the petitioner undertakes before this Court that without impleading the 1st respondent, the petitioner will not prosecute the suit. Therefore, the order passed by the court below is liable to be set aside.

5. The 1st respondent has filed an application to implead her as a party in the suit filed by the petitioner, anticipating that the petitioner is claiming her property. Further, the learned counsel for the respondent also admitted that the description of the property in the suit schedule is D. No. 27/27, Rajamangalam 7th Street, Villivakkam, Chennai -49 and on the apprehension that there would be interference by the

petitioner in the 1st respondent's property, she has filed the impleading application. From the above submissions of the learned counsel for the petitioner, it is clear that there would be no interference by the petitioner, in so far as suit property is concerned. The respondent may not have objection by recording the statement of the counsel for the petitioner.

6. Considering the submission of the learned counsel for the parties, the order passed by the court below is set aside. The Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

18.01.2018

Index : Yes/ No

Speaking order/ Non speaking order

[Issue order copy on 23.01.2018]

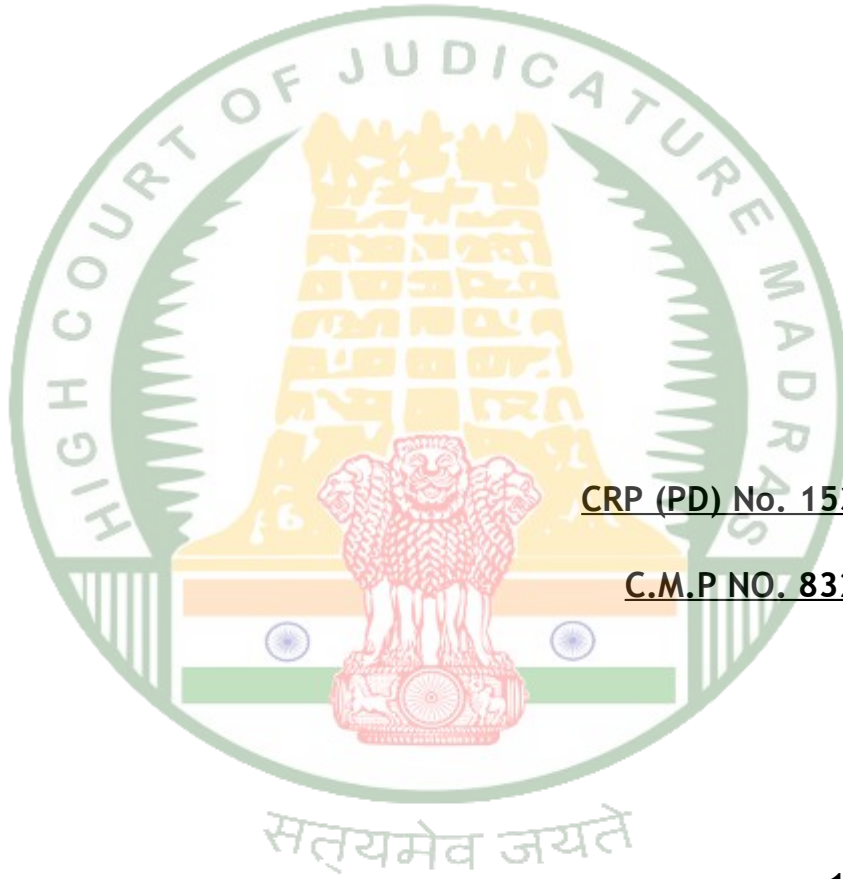
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To

The XVII Assistant Judge,
City Civil Court , Chennai

D. KRISHNAKUMAR J.,

avr



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