

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1829 of 2013
& M.P.No.1 of 2013

1.Jaya
2.Suseela

.. Petitioners

Vs.

R.Munusamy

.. Respondent

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 01.04.2013 made in I.A.No.3366 of 2013 in O.S.No.8196 of 2011 on the file of the XI Assistant City Civil Court, Chennai.

For Petitioners : M/s.P.A.Chithramani

For Respondent : Mr.V.T.Narendiran

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 01.04.2013 made in I.A.No.3366 of 2013 in O.S.No.8196 of 2011 on the file of the XI Assistant City Civil Court, Chennai.

2.The petitioners are the defendants 1 and 2 and the respondent is the plaintiff in O.S.No.8196 of 2011 on the file of the XI Assistant City Civil Court, Chennai. The respondent filed the said suit for declaration of Cancellation deed bearing document No.1209/2011 as null and void and for permanent injunction restraining the petitioners from alienating or encumbering the schedule mentioned properties. The petitioners filed I.A.No.3366 of 2013 under Order VII Rule 11 of C.P.C to reject the plaint. According to the petitioners, the suit property belongs to Tamil Nadu Slum Clearance Board and under Sections 29, 55 and 69 of Tamil Nadu Slum Areas Improvement and Clearance Act, 1971, the suit is not maintainable.

3.The respondent filed counter affidavit and contended that the suit is not against the Tamil Nadu Slum Clearance Board and petitioners have filed application when the suit was posted for cross examination of P.W.1 and the present application is not maintainable and prayed for dismissal of the application.

4.The learned Judge considering the averments in the affidavit, counter affidavit and Section 29 of the Tamil Nadu Slum

Areas Improvement and Clearance Act, 1971, dismissed the application.

5. Against the said order of dismissal dated 01.04.2013 made in I.A.No.3366 of 2013 in O.S.No.8196 of 2011, the present Civil Revision Petition is filed by the petitioners.

6. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

7. From the materials available on record, it is seen that the property in question was allotted to the father of the petitioners and respondent. After his death, the petitioners released their right in favour of the respondent. Subsequently, they have cancelled the release deed. The respondent has filed suit for declaration to declare the Cancellation Deed dated 10.06.2011 as null and void and for permanent injunction restraining the petitioners from alienating and encumbering the schedule mentioned properties. In view of the above relief and averments made in the plaint, the contention of the petitioners that suit is not maintainable as per the provisions of Tamil Nadu Slum Areas Improvement and Clearance

Act, 1971 has no merits. The dispute is only between the petitioners and respondent, who are the brother and sisters. The learned Judge has considered the above facts and dismissed the application by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 01.04.2013 made in I.A.No.3366 of 2013 in O.S.No.8196 of 2011.

8.In the result, this Civil Revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.02.2018

Index: Yes/No
gsa

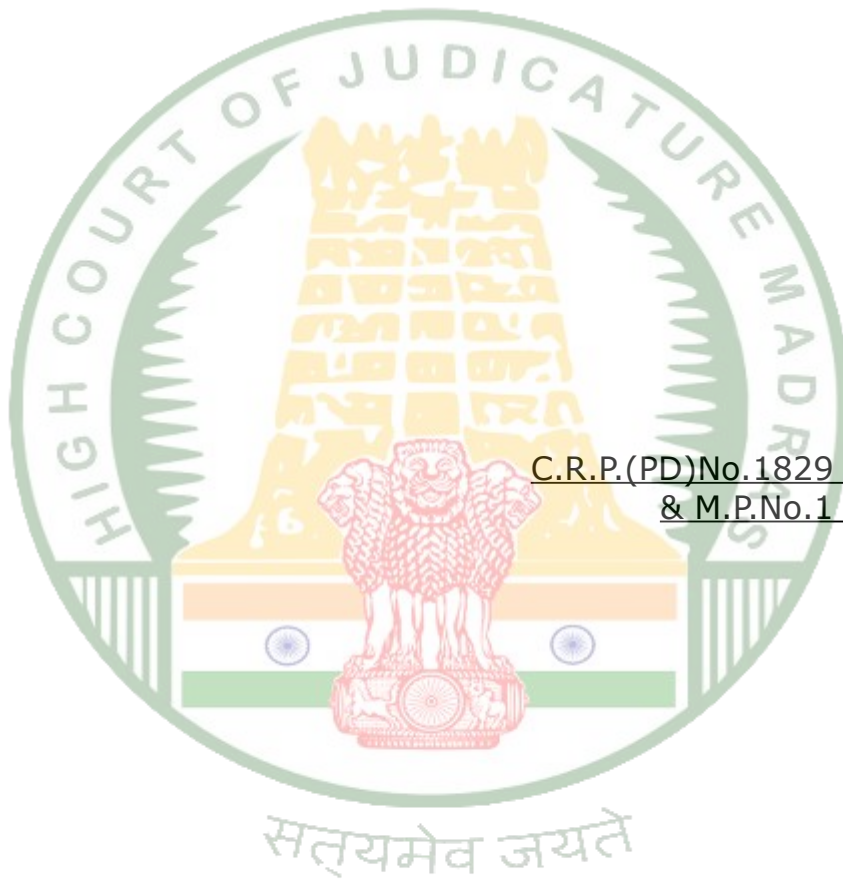
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To
The XI Assistant City Civil Judge,
Chennai.

V.M.VELUMANI, J.

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