

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2018

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.(PD).No.3575 of 2014
and
M.P.No.1 of 2014

1.Pavayee	...	Petitioners
2.Muthu Gounder	Vs.	
K.Ganapathy	...	Respondent

Prayer :- The Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 25.06.2014 made in C.M.A.No.13 of 2013 on the file of the learned Sub Court, Tiruchengode reversal of the fair and decretal order dated 29.02.2012 made in I.A.No.55 of 2010 in O.S.No.21 of 2010 on the file of the learned Principal District Munsif Court, Tiruchengode.

For Petitioners : Mr.N.Manokaran

For Respondent : Mr.S.Palaniswamy

ORDER

The instant revision has been filed challenging the fair and decretal order dated 25.06.2014 passed in C.M.A.No.13 of 2013 on the file of the Sub Court, Tiruchengode, reversing the fair and decretal order dated 29.02.2012 passed in I.A.No.55 of 2010 in O.S.No.21 of 2010 on the file of the Principal District Munsif Court, Tiruchengode.

Brief facts leading to the filing of the revision:

2.The petitioners are the plaintiffs in the suit. They filed the suit O.S.No.21 of 2010 before the Principal District Munsif Court, Tiruchengodu seeking for a declaration that the first plaintiff is the absolute owner of the suit schedule property and they have also sought for permanent injunction. The petitioners claim ownership based on a gift allegedly executed by the father of the first plaintiff in her favour. The respondent is the 7th defendant in the suit, who is the purchaser of 1/3rd share in the suit schedule property from the defendants 2 to 6, who are also the legal heirs of the deceased Palanisamy Gounder, the brother of the first plaintiff.

3.In the written statement filed by the defendants 1 to 6, they have denied the execution of the gift deed in favour of the first petitioner/first plaintiff by her father Sengoda Gounder. During the pendency of the suit, I.A.No. 55 of 2010 was filed by the petitioners/plaintiffs seeking for injunction against the respondent, who is the 7th defendant in the suit, restraining the respondent from interfering with their peaceful possession and enjoyment of the suit schedule property.

4.The trial Court by its order dated 29.02.2012 granted an order of injunction in favour of the the petitioners. Aggrieved by the order dated

29.02.2012 passed in I.A.No.55 of 2010, the respondent, who is the 7th defendant in the suit, preferred an appeal in C.M.A.No.13 of 2013 before the Sub-Court, Tiruchengodeu. The Sub-Court, Tiruchengode, by its order dated 25.06.2014, reversed the findings of the trial Court in I.A.No.55 of 2010 and vacated the order of injunction granted in favour of the petitioners. Aggrieved by the order dated 25.06.2014 passed in C.M.A.No.13/2013, the instant revision has been filed by the petitioners, who are the plaintiffs in the suit.

5.Heard Mr.N.Manokaran, learned counsel appearing for the petitioners and Mr.S.Palaniswamy, learned counsel appearing for the respondent.

6.Admittedly, the respondent, who is the 7th defendant in the suit O.S.No.21 of 2010, has purchased 1/3rd share in the suit schedule property from the defendants 2 to 6 in the suit, who are the legal heirs of late Palanisamy. Late Palanisamy, Dr.Ganapathy the first defendant are brothers and Pavayee the first petitioner/first plaintiff is the sister and admittedly the suit schedule property was originally owned by their father late Sengoda Gounder.

7.It is the case of the petitioners that the first petitioner/plaintiff is the absolute owner of the suit schedule property, whereas, it is the case

of the defendants 1 to 6 that they are co-owners along with the first petitioner as there was no gift deed executed by late Sengoda Gounder in favour of the first petitioner.

8.The trial Court granted an order of injunction in favour of the petitioners in I.A.No.55/2010, which was reversed by the first appellate Court by its order dated 25.06.2014 made in C.M.A.No.13 of 2013 vacating the order of injunction granted in favour of the petitioners on the ground that the petitioners as well as the defendants 1 to 6 are co-owners and the respondent, who is the 7th defendant in the suit, has purchased the property only from the defendants 2 to 6 who are co-owners along with the petitioner, injunction cannot be granted.

9.The learned counsel appearing for the petitioners also submits that no stay was granted by this Court while the Civil Revision Petition was admitted and trial in the suit O.S.No.21 of 2010 is also progressing.

10.This Court has examined the impugned order dated 25.06.2014 passed in C.M.A.No.13 of 2013. In the considered view of this Court, the lower appellate Court is right in coming to the conclusion that injunction cannot be granted against co-owners and therefore, no ground has been made out by the petitioners in this revision to interfere with the order dated 25.06.2014 passed in C.M.A.No.13 of 2013.

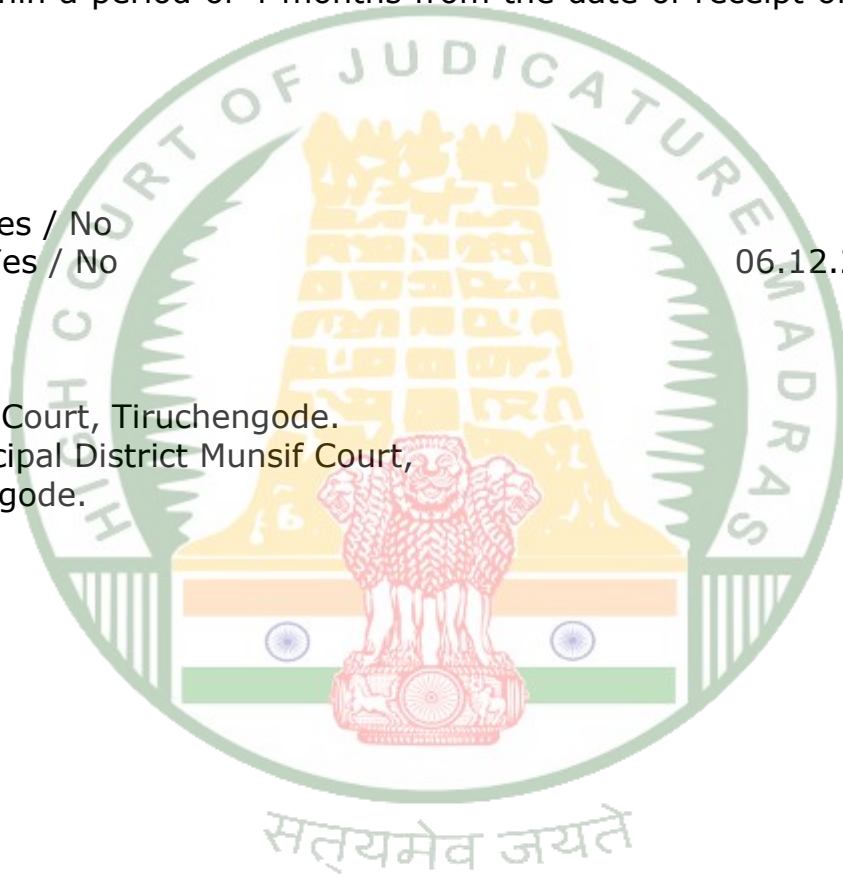
In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, since the suit is of the year 2010, this Court directs the trial Court to dispose of the suit within a period of 4 months from the date of receipt of a copy of this order.

Index : Yes / No
Internet : Yes / No
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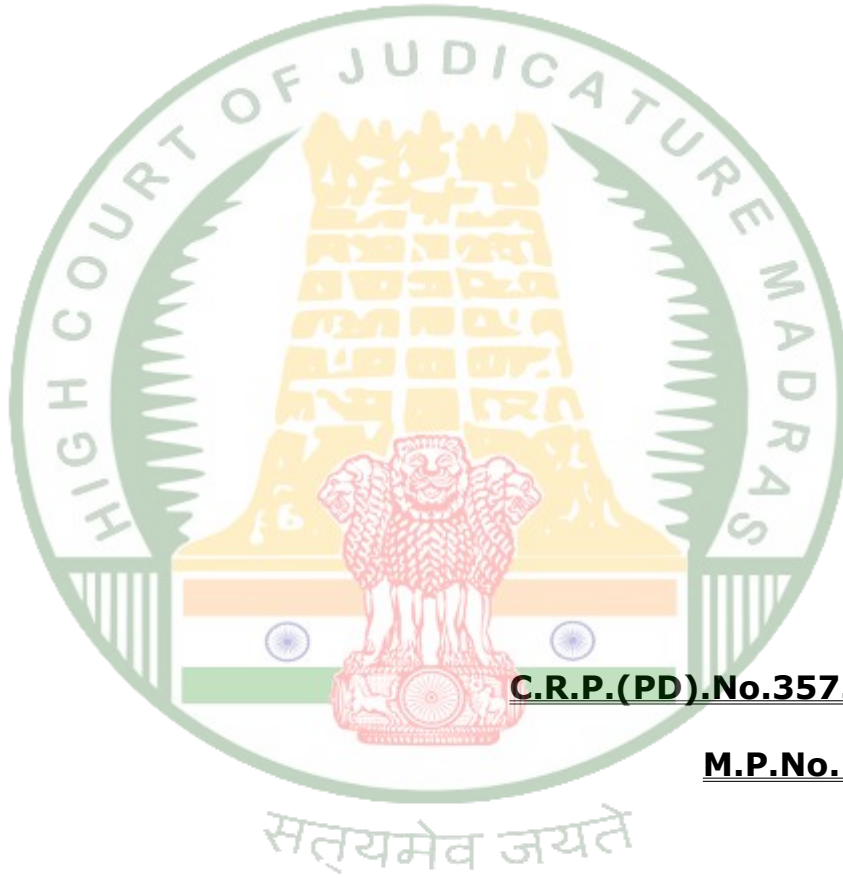
1. The Sub Court, Tiruchengode.
2. The Principal District Munsif Court,
Tiruchengode.



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ABDUL QUDDHOSE,J.

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