

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).Nos.469 to 471 of 2019

and

C.M.P.No.3125 of 2019

1. G. Arunachalam
2. A. Uthami
3. A. Paramasivamoorthy ... Petitioners/Petitioners/
Plaintiffs in all CRPs(PD)

-VS-

1. K. Arunmozhi
2. R. Maninathan ... Respondents/Respondents
/Defendants in all CRPs(PD)

PRAYER in all CRPs(PD):

Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decretal order dated 14.11.2018 made in I.A.Nos.258, 257 & 259 of 2018 in O.S.No.48 of 2018 on the file of the Subordinate Judge, Palladam.

For Petitioners : Mr.K. Sudhakar
For Respondents : Mr. K. Myilsamy,
learned Caveator counsel for R1

ORDER

The above Civil Revision Petitions are filed challenging the common order arising against the orders in I.A.Nos.258, 257 & 259 of 2018 in O.S.No.48 of 2018 on the file of the Subordinate Judge, Palladam I.A.No.257 of 2018, was filed under Section 151 of Code of Civil Procedure, to reopen the plaintiffs evidence for further cross-examination of PW1. I.A.No.258 of 2018 was filed to recall PW1 for further cross-examination, under the provisions of Order 18 Rule 17 and Section 115 of the Code of Civil Procedure and in I.A.No.259 of 2018 was filed under the provisions of Order 7 Rule 14 (3) and Section 151 of the Code of Civil Procedure to receive additional documents.

2. The facts in brief necessary for disposing off the revisions by way of a common order are as follows:

2.1. The revision petitioners are the plaintiffs in the suit in O.S.No.147 of 2013 on the file of the learned Subordinate Judge, Palladam, and they had the filed a suit for declaration that the Sale Deed dated 29.04.2011, bearing Document No.8421 of 2011

in the name of the 2nd defendant as null and void.

2.2. One of the pleadings that was taken in the plaint was that the plaintiffs had several financial dealings with the 1st defendant and in trust, had given them a Power of Attorney, which has been misused by the 1st defendant. The plaint has been filed on 18.03.2013. The allegations therein has been denied by the 1st defendant vide his written statement on 14.04.2015 wherein he has in particular, denied all the allegations that he had misused the power, which has been given to him and that there has been no loan transaction that the agreements was attested by the 3rd defendant.

2.3. Thereafter, it has come to understand that the trial has been concluded and arguments have also been made by both sides. At this juncture, the plaintiffs have come forward with the above interim applications.

2.4. The learned Subordinate Judge, Palladam, vide order dated 14.11.2018 has dismissed all the three applications, stating that the applications are highly belated and during the cross-examination of DW1, no question have been put to PW1

about the previous transactions. The Court had also found these applications were moved merely to full up the lacuna. With these observations these applications have been dismissed.

3. Heard Mr. Mr.K. Sudhakar, learned counsel appearing on behalf of the petitioners and Mr. K. Myilsamy, learned counsel appeared for the respondents.

4. There is no explanation on the side of the petitioners, as to why they have not issued notices to the respondents/defendants to produce the documents, which according to them in the custody of the respondents. The written statement has been filed as early as in the year 2015 and trial had commenced much later in 2018, by which time a notice could have been issued asking for the production of those documents. Further considering the fact that two of the documents are registered documents. The revision petitioner's could have tried to obtain the certified copies of the same during this intergunam. This Court is therefore of the view that these applications have been rightly dismissed by the learned

Subordinate Judge, Palladam.

5.In the result these Civil Revision Petitions are dismissed and the order dated 14.11.2018 made in I.A.Nos.258, 257 & 259 of 2018 in O.S.No.48 of 2018 on the file of the Subordinate Judge, Palladam is confirmed and connected miscellaneous petition is closed. No costs.

07.02.2019

jrs/tta

Index : Yes/No
Internet : Yes / No
Speaking/non-speaking order

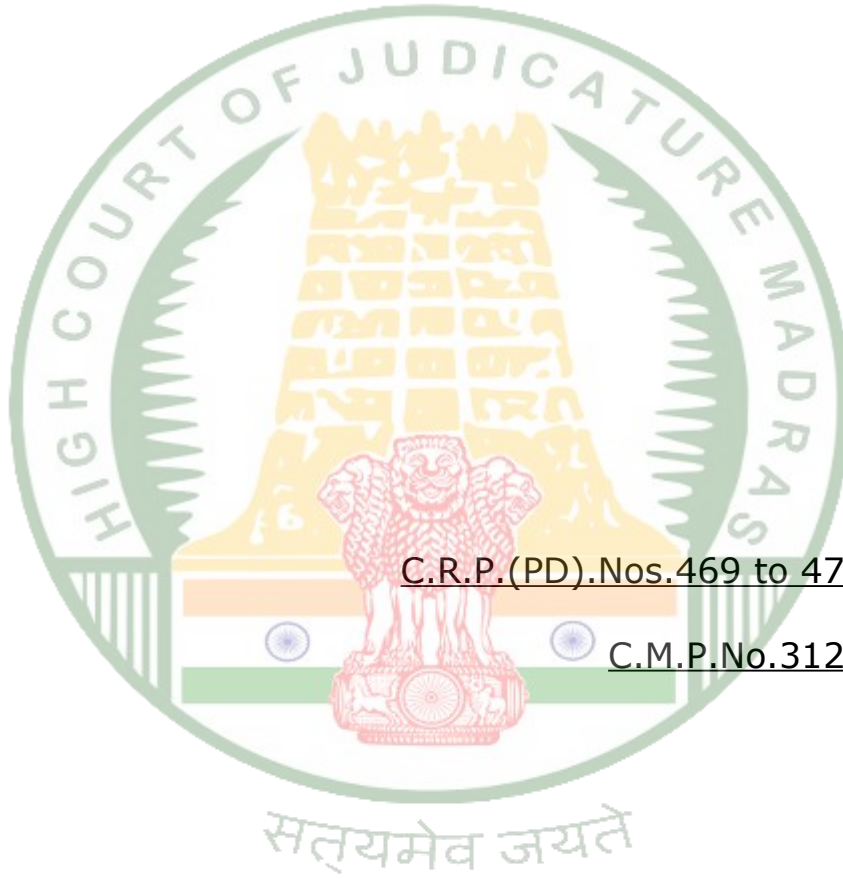
To
The Subordinate Judge, Palladam.

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P.T.ASHA.J.,

jrs/tta



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