

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.02.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD)No.546 of 2019 and
C.M.P.No.3631 of 2019

A.C.Selvam

..

Petitioner

versus

Veeramani

..

Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.01.2019 made in I.A.No.1248 of 2018 in O.S.No.39 of 2014 on the file of the learned District Munsif, Pappireddipatti.

For Petitioner : Mr.K.Govi Ganesan

ORDER

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This Civil Revision Petition has been filed against the order dated 02.01.2019 made in I.A.No.1248 of 2018 in O.S.No.39 of 2014 on the file of the learned District Munsif, Pappireddipatti.

2. The respondent herein is the plaintiff has filed the suit for declaration of title and for consequential injunction. On perusal of the order of the trial Court shows that the plaintiff's evidence has been closed in the year 2017 itself. Thereafter, from 17.08.2017 to till 30.10.2018, the case was posted for defendant side evidence. In the meantime, D.W.1 was examined and his evidence was closed. Since he has not produced any evidence for more than 14 hearings, thereafter, he has filed an application to reopen the case for further evidence stating that during the period i.e. from 12.10.2018 to 21.11.2018, he was under medical treatment at Palamaner in Andhra Pradesh, the trial Court taken note of the fact that no materials whatsoever filed to show that he was under medical treatment and thereby, dismissed the application, particularly, taking into consideration of the inordinate delay of 14 months occasioned in recording the defendant side evidence, further there is no necessity has been pleaded for re-opening the defendant side evidence and thereby, dismissed the application.

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3. Aggrieved over the above said order dated 02.01.2019, the revision petitioner is before this Court with the present Civil Revision Petition.

4. Heard the learned counsel appearing for the petitioner and also perused the materials available on record.

5. When the trial Court has recorded the reasons which well founded, this Court does not find any illegality or infirmity in the order passed by the trial Court, in fact after closing the defendant side evidence, he cannot take advantage to drag on the matter for years together and filed application to reopen the case on the ground that he was unfit medically. In the absence of any evidence to show to prove his contention to reopen the case, when the party to suit purposely and literately not availed opportunity to cross examine the other side as a matter of right reopen cannot be ordered. Hence, this Court does not find any merits in this Civil Revision Petition and accordingly, the same is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

14.02.2019

Speaking Order/Non Speaking Order

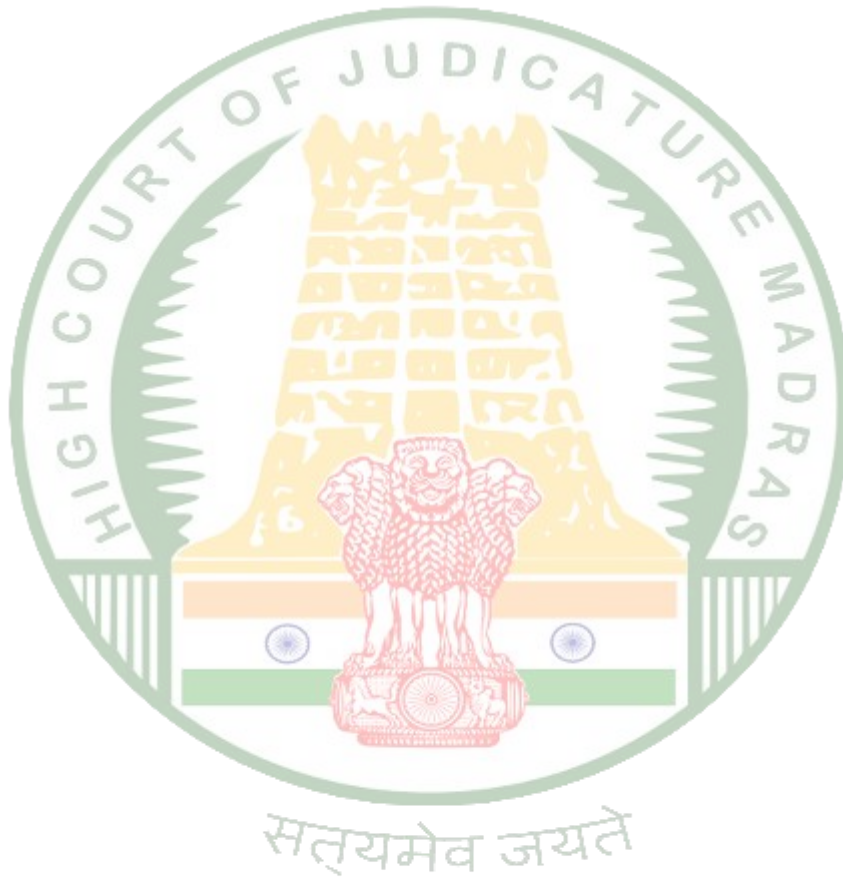
Index : Yes / No

Internet : Yes

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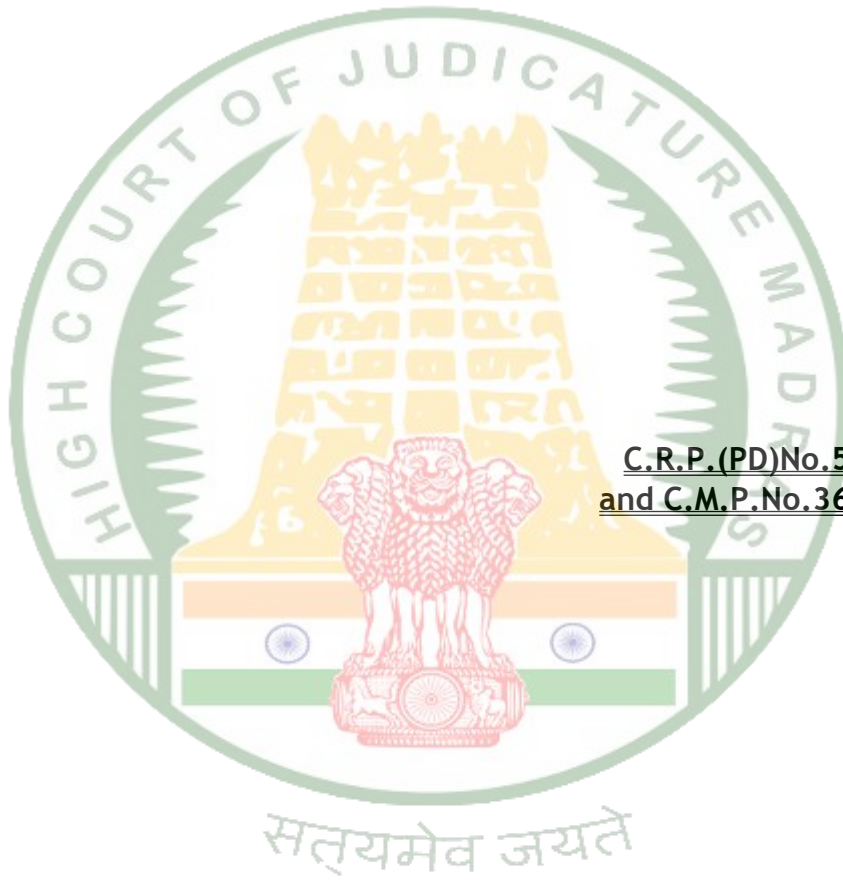
To

The District Munsif,
Pappireddipatti.



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N.SATHISH KUMAR, J.,
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