

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.577 of 2019
&
C.M.P.No.3880 of 2019

Ilayaraja

...Petitioner

Vs

1.Kulanthiavel Udayar

2.Savi Udayar

3.Vellammal

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 07.09.2018 made in I.A.No.2057 of 2017 in O.S.No.37 of 2012 on the file of the learned I Additional District Munsif Court, Kallakurichi.

For Petitioner सत्यमेव जयते Mr.Manoharan.N

ORDER

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The above Civil Revision Petition is filed challenging the order passed under provisions of Order XXII Rule 4 of the Code of Civil Procedure in recognizing the proposed parties as the legal heirs of the

deceased 1st defendant. In the affidavit filed in support of the petition the plaintiff would contend that the 1st defendant had died on 08.12.2017 and his wife Sampoorname had died four years ago and the plaintiff, 3rd defendant and their sister Vellammal are his only legal representatives. However, on 06.07.1971, by a settlement deed the deceased 1st defendant had settled the suit properties on the plaintiff and the 3rd defendant after the death of his wife Sampoorname. Since the plaintiff and the 3rd defendant were already on record the impugned petition was filed to record the plaintiff, 3rd defendant and Vellammal as the legal representatives of the deceased 1st defendant and bring the said Vellammal on record as the 4th defendant.

2.The 2nd defendant/revision petitioner has resisted this application on the ground that the settlement dated 06.07.1971 was revoked by a revocation deed dated 25.02.2008 and thereafter the 1st defendant had sold the property to the 2nd defendant under a sale deed dated 23.04.2008. Therefore the 2nd defendant would seek to have the petition dismissed. The learned I Additional District Munsif, Kallakurichi proceeded to allow I.A.No.2057 of 2017 by her order dated 07.09.2018 and it is challenging this order that the revision

petitioner is before this Court.

3.As rightly pointed out by the Court below no prejudice is going to be caused to the revision petitioner if the said application is allowed and also in the interest of justice the legal heirs of the 1st defendant has to be brought on record.

I find no infirmity in the order passed by the learned I Additional District Munsif, Kallakurichi. The Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous petition is also closed.

01.03.2019

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

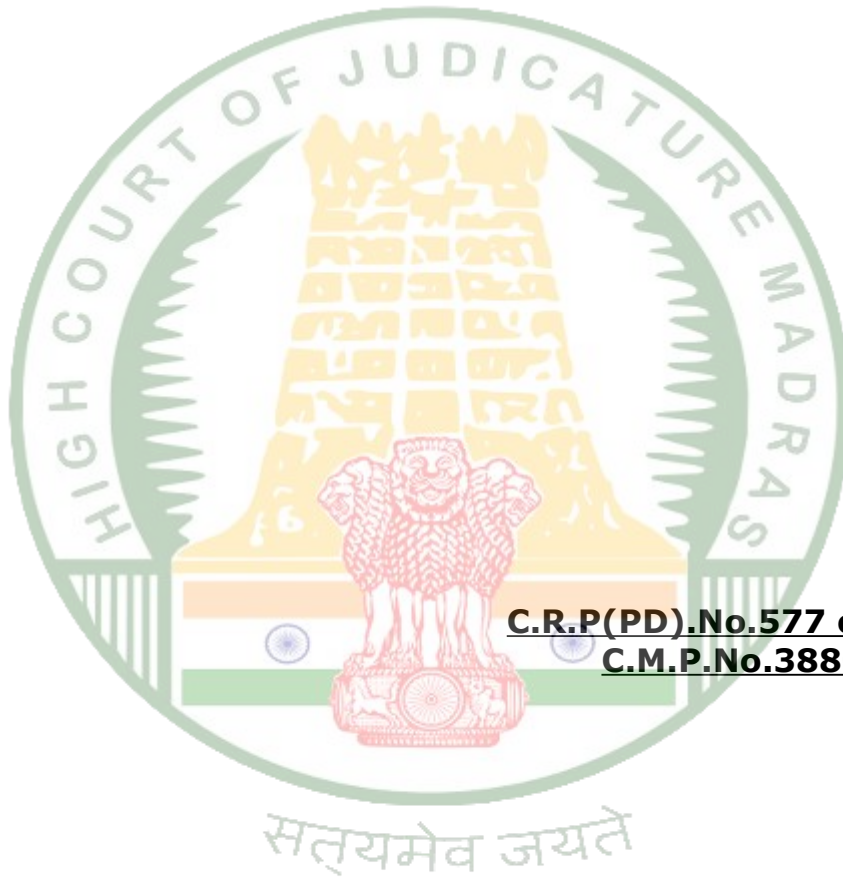
To,

The I Additional District Munsif,
Kallakurichi

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P.T.ASHA, J.,

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