

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

**C.R.P. (NPD) Nos.1187, 1188 and 1189 of 2012 &
M.P.No.1 of 2012 in C.R.P.No.1187 of 2012**



Mr.G.Krishnan .. Petitioner in
CRP.No.1187 of 2012

1. Mr.G.Krishnan .. Petitioners in
2. Mr.G.Balaji CRP.No.1188 of 2012

Mr.G.Balaji .. Petitioner in
CRP.No.1189 of 2012

1. Mrs.Aranji
Radha Bai (died)
2. Mrs.Kalyani .. Respondents in all
CRPs

Vs.

सत्यमेव जयते

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PRAYER in CRP.No.1187 of 2012: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Order and decretal Order dated 09.01.2012 made in I.A.No.757 of 2009 in O.S.No.419 of 1993 on the file of the District Munsif Court, Gudiyatham, Vellore District.

PRAYER in CRP.No.1188 of 2012: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order and decreetal Order dated 13.09.2011 made in I.A.No.106 of 2011 in I.A.No.757 of 2009 in O.S.No.419 of 1993 on the file of the District Munsif Court, Gudiyatham, Vellore District.

PRAYER in CRP.No.1189 of 2012: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order and decreetal Order dated 13.09.2011 made in I.A.No.107 of 2011 in I.A.No.757 of 2009 in O.S.No.419 of 1993 on the file of the District Munsif Court, Gudiyatham, Vellore District.

For Petitioners : Mr.T.Dhanyakumar in all CRPs

For Respondent : Ms.P.Rosekomalam in all CRPs

COMMON ORDER

These revisions have been filed as against the Order of the Court below in dismissing the applications filed to reopen the suit and to implead the revision petitioners in the suit and allowed the application filed to implead the revision petitioners in the final decree proceedings.

2. The Court below having found that the preliminary decree has already been passed and final decree proceedings are pending, dismissed the applications filed in 106 of 2011 and 107 of 2011. However, allowed impleadment in the final decree proceedings in I.A.No.757 of 2009. As against

which the present revisions have been filed.

3. It is the contention of the learned counsel for the revision petitioners that they have purchased the suit property from the first defendant Radha Bai and the petitioners have become the owners of the property. However, they have not been arrayed as a party in the suit and a preliminary decree has been passed. Therefore, their presence is necessary to decide the suit itself and submitted that the trial Court has allowed the application only in the final decree and such approach of the trial Court is not based on any material.

4. The learned counsel for the respondents submitted that originally the suit property was owned by one Govindasamy Naidu and his brother Venkatasamy Naidu. The suit property fell into share of Venkatasamy Naidu and his wife Radha Bai and the respondents are their daughters. According to him, these facts are not in dispute. Even the first defendant had admitted the same in O.S.No.41 of 1973 and submitted that the petitioners have merely purchased the property from one Radha Bai and they can only step into the shoes of the vendor. They can be impleaded only in the final decree proceedings and in the suit they cannot be impleaded and the Order of the trial Court is well balanced and does not require any interference.

5. The trial Court while passing the Orders allowed only for impleadment in the final decree proceedings, considering the fact that the revision petitioners who are impleaded in the final decree proceedings are none other than the

purchasers of the property from the wife of the first defendant. The revision petitioners can only step into the shoes of the vendor and they cannot claim independent right over the property. They are utmost entitled to claim a share in respect of the share allotted to the said Radha Bail and not others. In view of the fact that they are only purchasers from the co-owners, they can very well work out their remedy in the final decree proceedings and seek equity before the Court while executing the final decree. The trial Court has rightly allowed their impleadment only in the final decree proceedings and dismissed the application for their impleadment in the suit. Hence, this Court does not find any infirmity in the Order passed by the trial Court.

6. Accordingly, these Civil Revision Petitions are dismissed and the Orders of the Court below is confirmed. Consequently, the connected miscellaneous petition is closed. No cost.

सत्यमेव जयते

12.02.2019

vrc

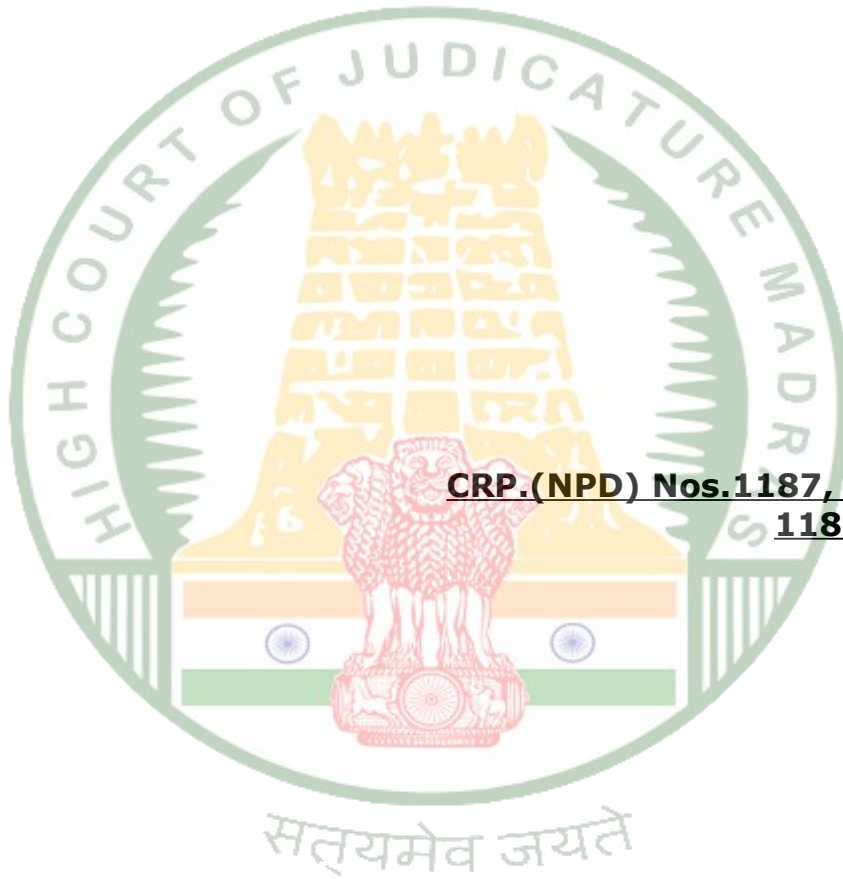
To

The District Munsif,
Gudiyatham, Vellore District.

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N.SATHISH KUMAR, J.

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1189 of 2012**

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