

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(PD).No.1300 of 2015
and
M.P.No.1 of 2015

E.M.Subramanian

.. Petitioner

vs.

1.Mylathal
2.M.Selvaraj
3.Renuka

4.Vadivelan Holdings (P)Ltd.,
Rep.by its Commercial Officer,
B.Devaraj
Door No.126, Government Arts College Road,
Coimbatore 641 018.

.. Respondents

Prayer.: Civil Revision petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.01.2015 made in I.A.No.756 of 2014 in O.S.No.2054 of 2009 on the file of the III Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : No Appearance

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decretal order dated 05.01.2015 Passed by the III Additional District Munsif Court, Coimbatore.

2. The petitioner filed O.S.No.2054 of 2009 before the III Additional District Munsif Court, Coimbatore for declaration and permanent injunction against the respondent Nos.1 to 3 herein. Thereafter the defendants filed the written statement, the petitioner filed I.A.No.701 of 2013 to implead the 4th respondent as the 4th defendant which was allowed by the said Court on 11.10.2013.

3. Pursuant to the amendment, the petitioner filed a petition for amendment of the plaint. It is very skeletal. Para 2 of the affidavit filed in support of I.A.No.756 of 2014 reads as under:

"2. I submit that the above case is in trial stage. Wherein P.W.1 myself and P.W.2 were examined. I took summon to one V.Arulanandham who is a broker in dealing the suit property. But he evaded the summons and the summon also returned as "No such addressee". So, at this stage it is most necessary to implead the purchaser of the suit property "Vadivelan Holdings(P) Ltd., rep.by its

Commercial Officer B.Devaraj'as necessary party. And it is most vital evidence for me in this suit to prove my bonafide."

4. The Court after examining the averments in the affidavit filed in support of the application, noticed that the petitioner has not given sufficient reason for allowing the petition.

5. However, the petitioner was unable to successfully serve summons on the broker Arunachalam who had allegedly acted as an intermediary to sell the suit schedule property to the 4th respondent herein.

6. Since the petitioner was unable to serve summons to examine the broker Arunachalam as a witness, the petitioner filed I.A.No.756 of 2014 to amend the plaint. This exercise was carried out by the petitioner much after the trial had commenced and after the petitioner was unable to serve the summons on the said broker Arunachalam.

7. The Court has concluded that the petitioner has not been diligent in filing the application and has filed this application to only delay the conclusion in the suit. It is evident that the petitioner has not taken timely steps to amend the plaint after impleading the 4th respondent in the year 2013.

8. It is thus clear that the said application was filed only with a view to delay the conclusion of the proceeding. I therefore, do not find any infirmity in the order passed by the learned III Additional District Munsif, Coimbatore.

9. The suit is of the year 2009 and the written statement was filed by the respondents 1 to 3 on 26.08.2010 and by the 4th respondent on 17.06.2014. It is only thereafter, the petitioner has filed an application for amendment of the plaint. Hence, the petitioner has not properly explained the reasons for seeking amendment to the plaint belatedly.

10. It is noticed that the suit is of year 2009. Despite the commencement of trial, it has not proceed further in view of the pendency of the present Civil Revision Petition. I therefore direct the learned III Additional District Munsif, Coimbatore to dispose the suit within a period of six months from the date of receipt of this order.

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11. The present Civil Revision Petition thus stands dismissed with the above observations. No cost. Consequently, connected miscellaneous petition is closed.

24.06.2019

Internet : Yes/No
kkd



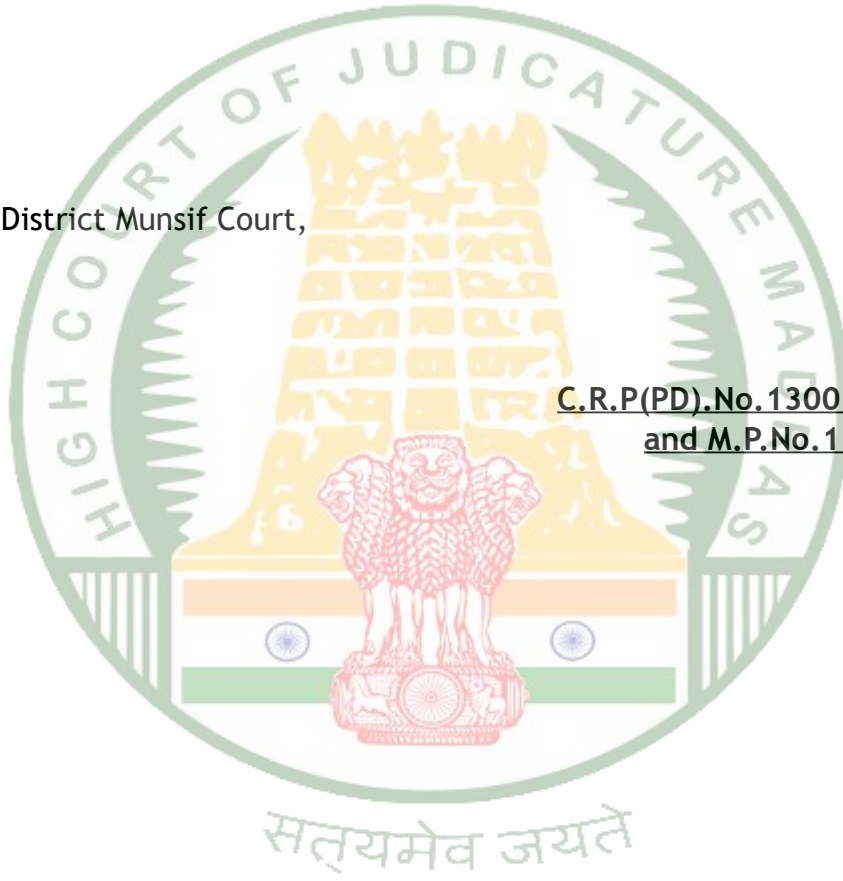
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C.SARAVANAN,J.

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To

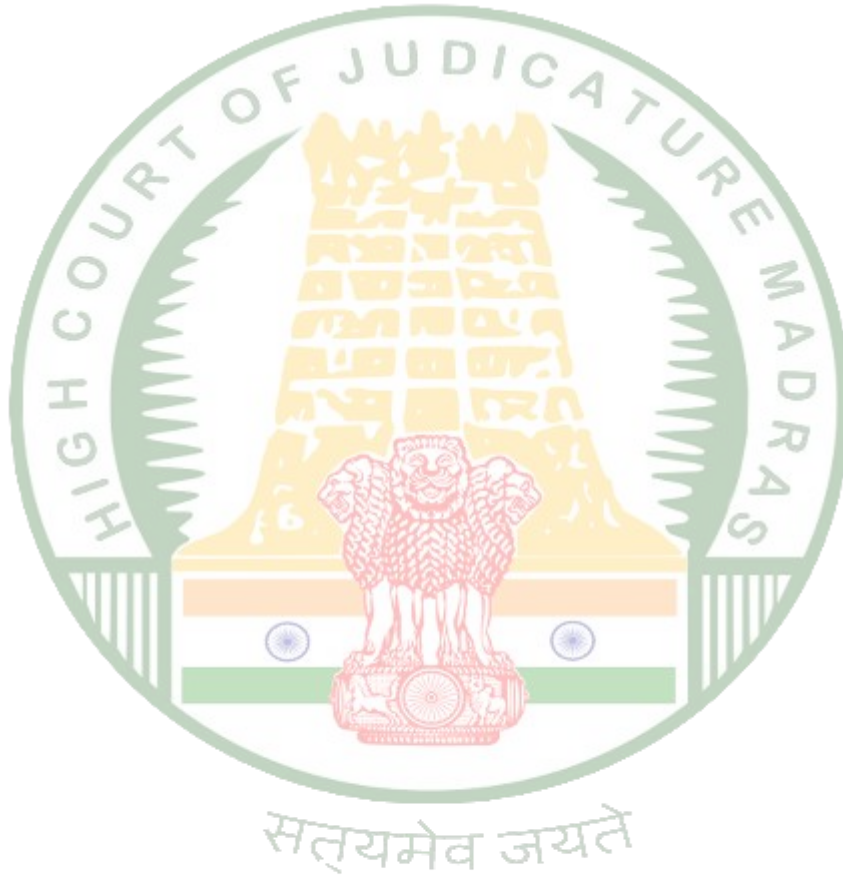
III Additional District Munsif Court,
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