

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

C O R A M

THE HON'BLE MR.JUSTICE M.S.RAMESH

C.R.P.[PD] No.1485 of 2015

and

M.P.No.1 of 2015

M.Kanagaraj

... Petitioner

Vs

M.Anbalagan

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decree dated 13.02.2014 passed in I.A.N.136/2014 in O.S.No.290/2013 on the file of Principal District Munsif Court, Ulundurpet.

For Petitioner : Mr.T.Gandhi

For Respondent : Mr.N.Suresh

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ORDER

The order under challenge in the present revision is that rejection of the petitioner's application under Order VIII Rule 1 of C.P.C., seeking leave to file the document dated 16.06.2002.

2. It is seen that the trial has yet to commence in the present suit. According to the learned counsel for the petitioner, the document which he intends to file before the Trial Court is an arrangement by which the suit property was partitioned among the brothers/petitioner and the respondent. The averment in the written statement also evidences that the suit property was partitioned among them. However, the recitals in the document dated 16.06.2002, which the petitioner intends to mark before the Trial Court reveals that it is only an arrangement for partition.

3. As such, I am unable to comprehend as to how such an agreement can be construed to be a document of partition. Nevertheless, these are aspects which could be deliberated and established during the course of trial and final arguments. However, since much reliance is placed on this document dated 16.06.2002, in my view, this document would only help the Trial Court to effectively adjudicate the dispute between the parties during the course of trial and thereafter. As such the petitioner can be given an opportunity to mark the document dated 16.06.2002 before the Court during the course of trial.

4. In the light of the above observations, the order passed in I.A.No.136 of 2014 dated 13.02.2014 is set aside and the matter is remanded back to the learned Principal District Munsif, Ulundurpet for fresh

consideration. The learned Principal District Munsif, Ulundurpet shall take up the application in I.A.No.136 of 2014 and pass appropriate orders, within a period of thirty days from the date of receipt of a copy of this order, granting leave to the petitioner to file the document dated 16.06.2002 on such terms and conditions as may deem fit and proper. It is open to the respondent herein to raise his objections, if he so chooses to do.

5. Since the suit is pending from the year 2013 onwards, the learned Principal District Munsif, Ulundurpet shall endeavour to complete the suit proceedings as expeditiously as possible preferably, within a period of six months from the date of receipt of a copy of this order.

6. Accordingly, the Civil Revision Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

02.01.2019

Speaking order/Non speaking order

Index : Yes/No

Internet : Yes/No

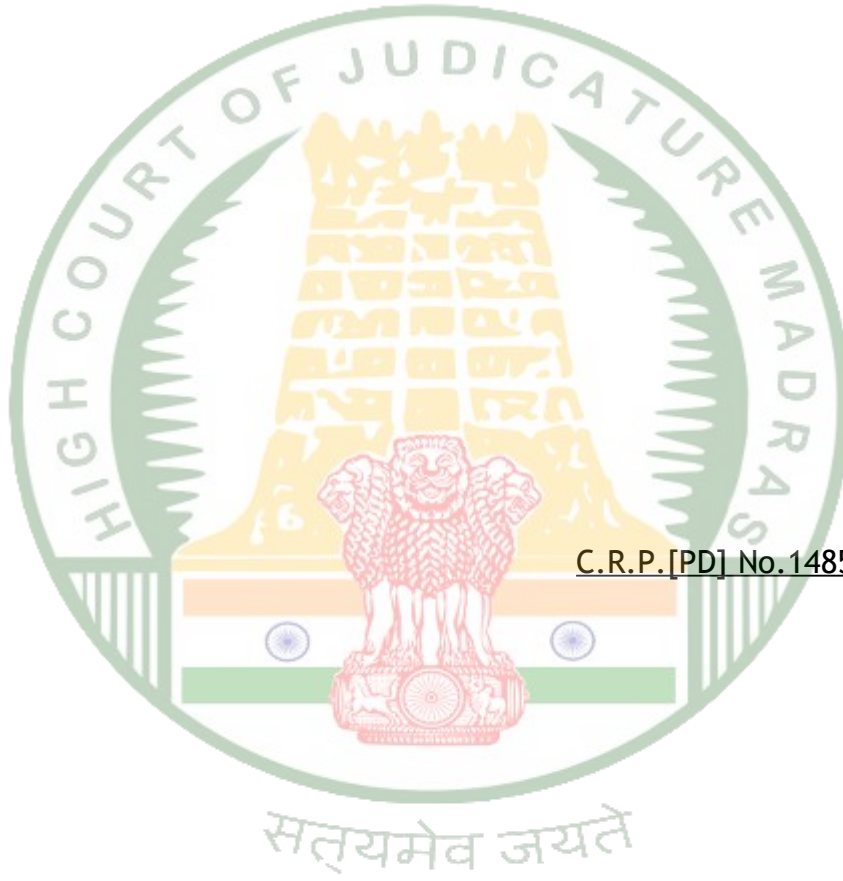
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To

The Principal District Munsif Court,
Ulundurpet.

M.S.RAMESH, J.

rsi



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