

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD) No.3533 of 2019 and
C.M.P.No.23189 of 2019

Sujatha

... Petitioner

Vs.

1.S.Gowri
2.Rupesh Dev (Minor)
3.Sanjeev Dev (Minor)

(RR 2 and 3 are represented by their
guardian and mother S.Gowri (1st Respondent)

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India
praying to set aside the Fair and Decretal orders dated 13.03.2017
passed in I.A.No.8 of 2017 in O.S.No.11 of 2010 on the file of Sub
Court, Poonamallee.

For Petitioner : Mr.R.Murali

ORDER

This revision petition has been filed against the fair and decretal
order made in I.A.No.8 of 2017 in O.S.No.11 of 2010 on the file of Sub
Court, Poonamallee, by order dated 13.03.2017.

2.Before the Court below, the respondents are the plaintiffs who filed the suit for declaration and injunction and the in the said suit, the revision petitioner/defendant was set exparte, an exparte decree was passed.

3.Subsequently, it seems that, petition had been filed by the revision petitioner/defendant to set aside the exparte decree. Accordingly, the exparte decree was set aside and the suit is now posted for trial. Before examination of witnesses, the respondents/ plaintiffs filed I.A.No.8 of 2017 under Order VII Rule Rule 14(3) C.P.C. to receive the documents mentioned in the petition and mark the same as Exhibit on the side of the plaintiffs. The said application since has been allowed, through the impugned order, aggrieved over the same, the present revision has been filed.

4.Heard Mr.R.Murali, learned counsel appearing for the revision petitioner, who would submit that, some of the documents sought to be marked, are cooked up documents and one of the documents is self-serving document as it is unregistered one, without a required stamp duty and penalty, it cannot be admitted in evidence. On these

grounds, the revision petitioner seems to have opposed the said application, however, after considering the same, the lower Court has allowed the said application.

5. Whether certain documents wanted to be marked by the respondents/plaintiffs are cooked up documents or not can be decided by the Court at the time of taking into evidence and also with regard to one of the document, whether it requires stamp duty and penalty in the category of compulsory registerable one, also to be decided by the trial Court and in that case, those unstamped document can be marked as document for collateral purpose. These legal issues have already been well settled. Therefore, on these grounds, the plaintiffs cannot be precluded in filing the documents, that too, in a suit where already an exparte decree was passed against the revision petitioner, which was subsequently set aside and moreover, these documents said to be filed only at the earliest stage i.e., before commencement of trial.

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6. In that view of the matter, this Court finds no error or infirmity in the order impugned, hence, it does not deserve any consideration in

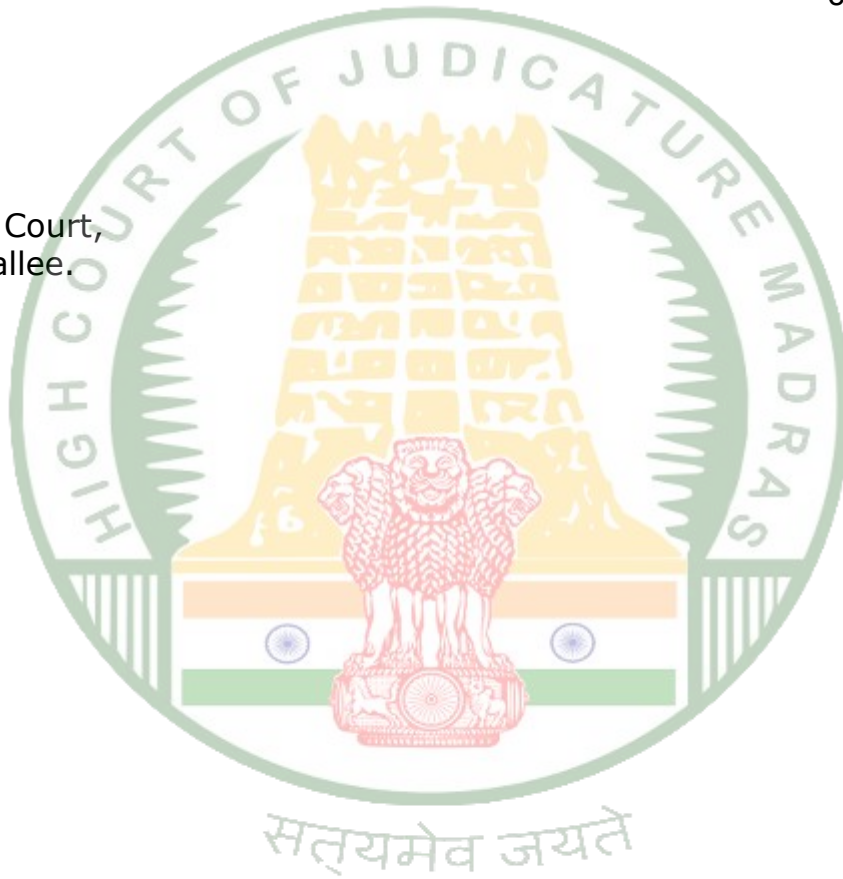
this revision. Accordingly, this Civil Revision Petition fails and hence, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

01.11.2019

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To

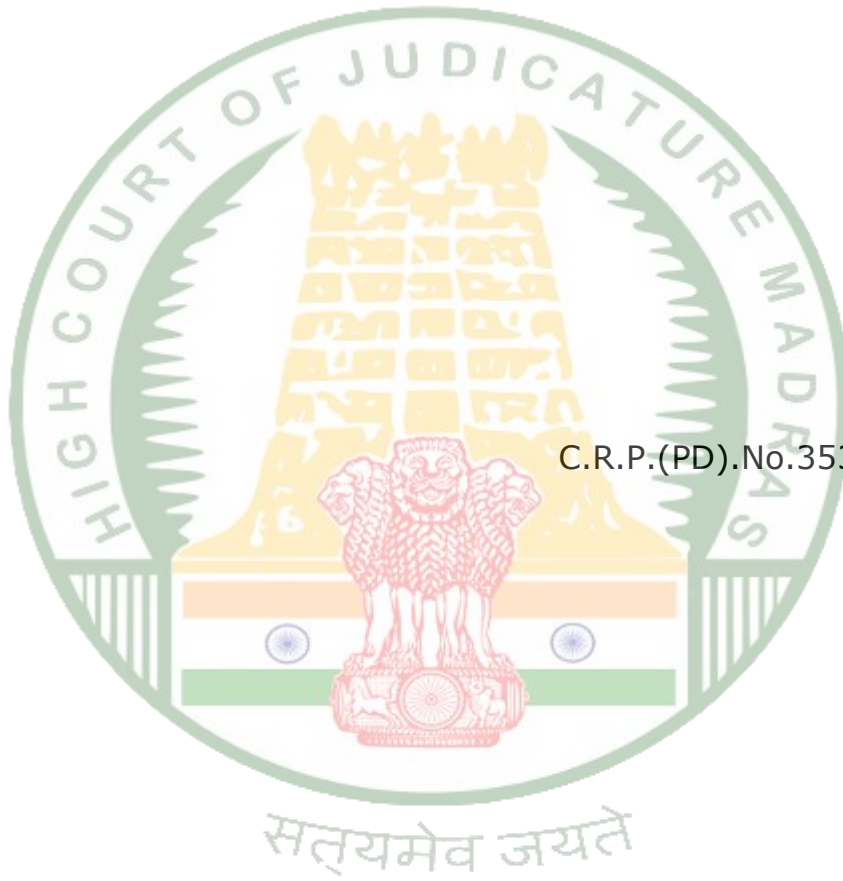
The Sub Court,
Poonamallee.



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R.SURESH KUMAR, J.
Sgl



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