

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD) Nos.4283 and 4284 of 2013
and M.P.Nos.1 of 2013 & 1 of 2014

Kumar @ Pichandi ... Petitioner in both C.R.Ps.

Vs.

1. A.G.Balakrishnan
2. Chandra
3. Jyothi
4. Uma

... Respondent in both C.R.Ps.

PRAYER in both C.R.Ps.: These Civil Revision Petition are filed under Article 227 of Constitution of India, against the fair and decreetal order dated 10.09.2013 passed in I.A.Nos.841 & 842 of 2012 respectively, in O.S.No.137 of 1996 on the file of the Subordinate Judge, Vellore.

For Petitioner : Mr.P.Mani
For 1st Respondent : Mr.S.Radha Gopalan
For 2nd to 4th
Respondents : Mr.V.Murali

- - - - -

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal order dated 10.09.2013 passed in I.A.Nos.841 & 842 of 2012 in O.S.No.137 of 1996 on the file of the Subordinate Judge, Vellore.

2. The case of the revision petitioner is that the suit has been filed by the 1st respondent herein. Since the defendants were set *ex parte* on 28.06.1996, they filed I.A.No.841 of 2012 under Order IX Rule 7 of C.P.C. to set aside the *ex parte* order and I.A.No.842 of 2012 under Order VIII Rule 9 of C.P.C to receive the additional written statement. The said interlocutory applications were dismissed. Aggrieved by the same, the present revisions are filed.

3. Heard the learned counsel appearing on both sides and perused the materials placed before this Court.

4. The suit itself has been filed for partition by the first respondent herein. The trial Court ought not to have dismissed the applications on technical grounds. Since the Court below has passed an

ex parte order, they should be given an opportunity to put forth their defence. But, the trial Court has not did so. Hence, this Court is of the view that the order of dismissal of the applications is not in accordance with law and the parties should be given an opportunity to put forth their defence. Accordingly, these Civil Revision Petitions are allowed and the additional written statement shall be filed by the defendants within 15 days from the date of receipt of a copy of this order. The trial Court is directed to dispose of the suit within a period of three (3) months thereafter. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.02.2019

asi

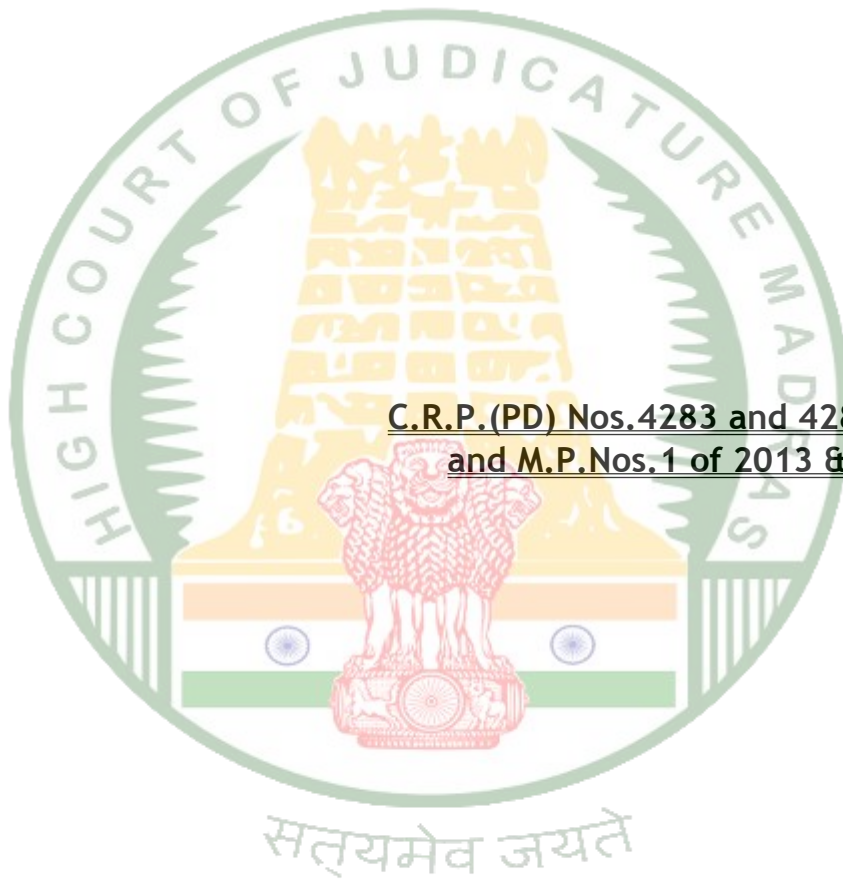
To

The Subordinate Judge,
Vellore.

WEB COPY

N. SATHISH KUMAR, J.

asi



C.R.P.(PD) Nos.4283 and 4284 of 2013
and M.P.Nos.1 of 2013 & 1 of 2014

WEB COPY

20.02.2019