

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.835 of 2019

1.Mr.Jainulabdeen

2.Jahabar

3.Mumtaj

4.Akbar

5.Syedakar

6.Hajha

7.Abdul Azeez

8.Tippusultan

9.Basheer Ahamed

...Petitioners

Vs

1.Jahabar Maraikkayar

2.Mohamad Yusuf Maraikayar @ Halith

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against docket order dated 11.01.2019 made in O.S.SR.No.8043 of 2018 on the file of the District Munsif, Nagapattinam.

For Petitioners : Mr.C.Sivanesan

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned District Munsif, Nagapattinam, in unnumbered O.S.S.R.No.8043 of 2018, where the learned Judge has dismissed the suit on the ground that the same is barred by limitation as the prayer in the suit is to declare a settlement deed executed as early as on 21.11.1940 as null and void. Even going by the averments that have been made in the plaint, it is seen that the plaintiffs/revision petitioners have obtained the knowledge of this document as early as in the year 2008, but has waited till the year 2018, nearly 10 years after the knowledge of the said document.

2.Challenging the order, the revision petitioners are before this Court. Mr.C.Sivanesan, learned counsel who appears for the plaintiffs/revision petitioners would contend that they came into the knowledge of the document on the year 2008, but they had to obtain

the orders for declaring them as legal heirs of their predecessors in title first for which they have filed an injunction suit. Therefore there is the delay in taking out the proceedings.

3.It is a fact that an earlier suit had been filed in O.S.N.166 of 2015 for a declaration that the plaintiffs are the legal heirs of Mrs.Goulusum Bivi and the cause of action for the instant suit was available even then and the plaintiff has not chosen to seek that relief nor seek leave to file for this relief at a later point. In view of this, the present suit is clearly hit by the provisions of Order II Rule 2 of the Code of Civil Procedure. I do not find any infirmity in the order passed by the learned District Munsif, Nagapattinam.

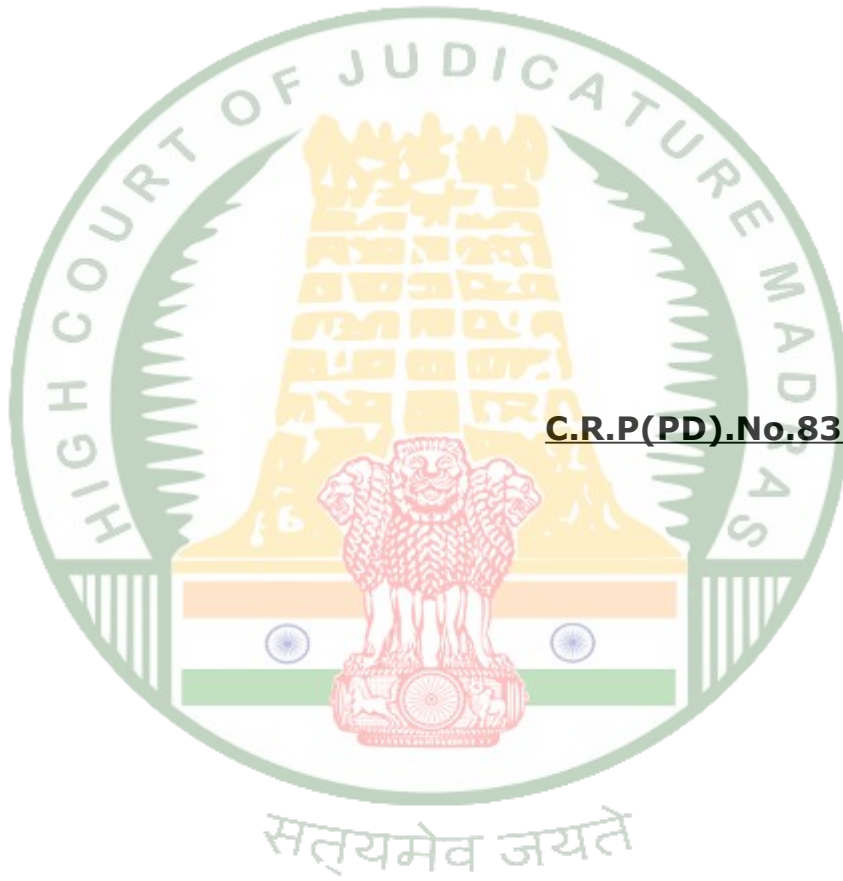
The Civil Revision Petition is dismissed. There shall be no order as to costs.

05.03.2019

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Index : Yes/No
Speaking order/non-speaking order
To
The District Munsif, Nagapattinam.

P.T.ASHA, J.,

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