

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. NPD 1415 of 2016
and
C.M.P. 7834 of 2016

1. M.Kumar
2. K.Manobalan
3. K.Shankar
4. M.Dhanam
5. M.Rajamani
6. M.Jayammal

... Petitioners

Versus

1. B.Karthikeyan
2. B.Mohan
3. B.Priya
4. B.Chandra

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the Fair and Final order dated 31.07.2014 in I.A.No.387 of 2014 in O.S.No.390 of 2012, on the file of II Addl. Sub-Judge, at Salem.

For Petitioners : Mr.R.Nalliyappan

For Respondents : Mr.I.C.Vasudevan

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application filed under Order 9 Rule 7 of C.P.C. to set aside the exparte order for not paying the cost as directed by the Court below.

2. The respondent herein filed a suit for declaration, declaring the sale deed dated 21.08.1996 as null and void, and to declare the exparte decree passed in O.S.No.2087/1996 as null and void, to pass an order of permanent injunction, and to grant preliminary decree dividing the suit property, and other reliefs.

3. Earlier, the petitioners/defendants 1 to 6 were set exparte. Subsequently, they have filed an application to set aside the exparte decree under Order 9 Rule 7 of C.P.C. The Trial Court has allowed the application on payment of cost of Rs.2000/- payable on or before 07.08.2014, failing which, the petition shall stand dismissed. Since the petitioners did not pay the amount within a time stipulated by the Court below, the application came to be dismissed by the Trial Court. Challenging the same, the present Civil Revision Petition has been filed.

4. I have heard and considered the rival submissions made by learned counsel appearing for petitioners as well as learned counsel appearing for respondents and perused the records carefully.

5. According to the petitioners, the order passed by the court below directing the petitioners to deposit the amount and the same was informed to them. The copy of the order was made ready only in the month of March 2016, and they are not in a position to pay the same. Further, there is no malafide intention on their part.

6. Considering the above facts and circumstances, in order to give an opportunity to the petitioners, and also in the interest of justice, this Court is inclined to set aside the order dated 31.07.2014 passed in I.A. 387 of 2014 in O.S. 390 of 2012, on the file of II Addl. Sub-Judge, Salem, and the petitioners are directed to pay the amount on or before 20.06.2020. However, considering the fact that the suit is pending from the year 2012, the Trial Court is directed to dispose the suit within a period of six months thereafter.

7. In the result, this Civil Revision Petition stands allowed.
No costs. Consequently, the connected Civil Miscellaneous
Petition in C.M.P. 7834 of 2016 is closed.

17.12.2019

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

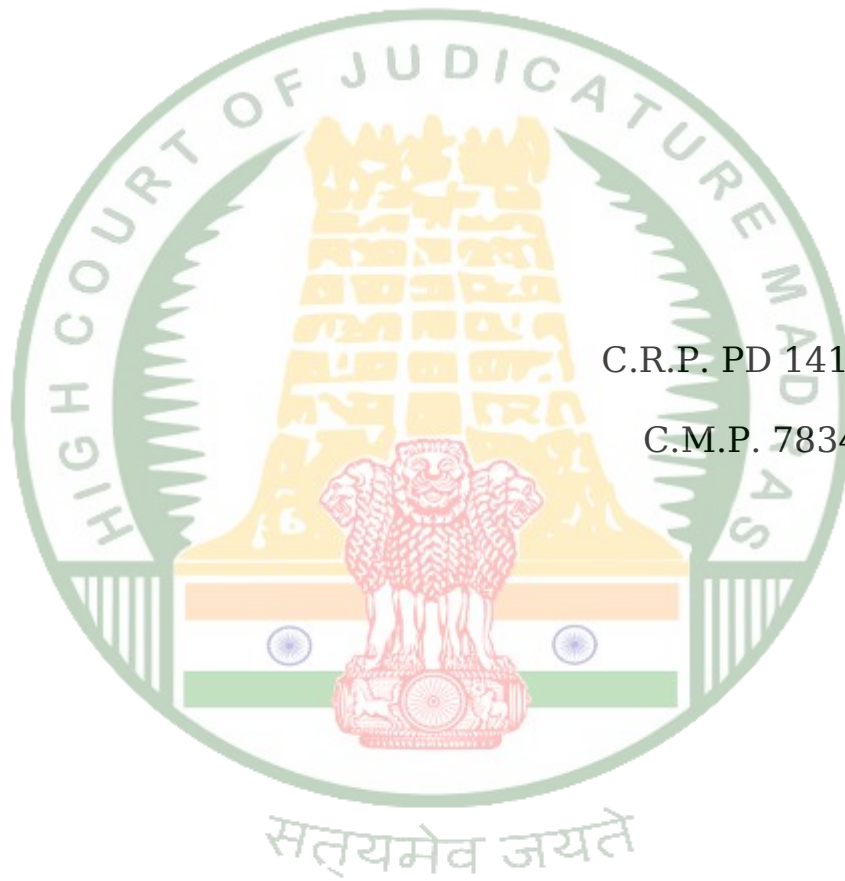
II Addl. Sub-Judge,
Salem.



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V.BHARATHIDASAN,J.

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