

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(PD).No.1375 of 2019

and

C.M.P.No.8990 of 2019

1.Meeran Maraikayar
2.Abdul Masjid Maraikayar
3.Kareem Maraikayar
4.Abu Sali
5.Abdul Razak ..Revision Petitioners 1-5/Plaintiffs 1-5
6.Thofiq
7.Mushtafa
8.Jaboorulla ..Revision Petitioners 6-8/Plaintiffs 7-9

Vs

1.Abdul Kathar
2.J.Mohamed Hussain
3.K.S.Samsudeen
4.E.Sowkath @ Kacchi Moideen
5.M.Thameen
6.M.Musthafa
7.A.Shahul Hameed
8.S.Aalavudeen
9.Nainar Mohammed ..Respondents/Defendants
10.A.Shagul Hammeed ..10thRespondent/6th Plaintiff

This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order dated

11.01.2019 passed in C.M.A.No.9 of 2018, by the learned Subordinate Judge at Madurantakkam, Kanchipuram District confirming the order and decretal order dated 03.07.2018 passed in I.A.No. 387 of 2018 in O.S.No. 21 of 2018, by the learned District Munsif Court at Madurantakkam, Kanchipuram District and allow I.A.No. 387 of 2018 in O.S.No. 21 of 2018.

For Petitioners : Mr.N.Nagu sah
For R1 : Mr.Nissar Ahmed

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned Subordinate Judge, Madurantakkam, in CMA.No. 9 of 2018, which is filed challenging the order in I.A.No. 387 of 2018 in O.S.No. 21 of 2018, pending on the file of the learned District Munsif, Madurantakam.

2 The revision petitioners/plaintiffs 1-5, 7-9 have filed a suit in O.S.No. 21 of 2018, for a permanent injunction restraining the defendants, their men, agents, servants, from in any way obstructing the burial of bodies in the suit property. The suit schedule property has been described as 0.38 cents in Survey No.25/7, property situate at Kancheepuram District, Cheyyur Taluk, Vembanur group, Kadapakkam Village. On 30.09.2017, one Mahshook, who belonged to Kaiyala Jadhi Safi Madham under the control of Kadapakkam Jamath died and when his relatives sought to bury him, they were obstructed by the defendants from burying the

body in the suit property for over 38 hours and the defendants demand huge sums of money and only after they received the said sum, they permitted relatives of Mahshook to bury him. The plaintiffs have further stated that the defendants are demanding huge sum to bury the body in the suit property.

3 The plaintiffs had also filed an application in I.A.No. 387 of 2018 in O.S.No. 21 of 2018, for an ad interim injunction, which was dismissed by an order dated 03.07.2018, by the learned District Munsif, Madurantakam. Challenging the said order, the plaintiffs had filed CMA No. 9 of 2018 on the file of the learned Subordinate Judge, by his order dated 11.01.2019, had also dismissed the above application, by observing that the dispute is not only in respect of the use of burial ground alone but also the question of charges which parties have to pay for the burying of the dead bodies. Challenging the said plaintiffs are before this Court.

4 When the matter came up before this Court, Mr.Nissar Ahmed, the learned counsel entered appearance on behalf of the first respondent today and has submitted that the defendants were not preventing the plaintiffs from burying the dead bodies but they were only demanding charges for the usage of the burial ground and for giving the necessary charges to the undertaker. He would

also submit that charges varies from Rs.1,000/- to Rs.2,500/. He has on instruction, stated that they have no objection in plaintiffs using the burial ground provided the above charges are paid by them for which due receipts will be issued by the defendants.

5 The Civil Revision Petition is therefore disposed of on the above submission of the learned counsel for the first respondent, that the defendants have no objection to the revision petitioners/plaintiffs using the suit property for burying the body on the payment of minimum charge ranging from Rs.1,000/- to Rs.2,500/-, for which due receipts will be issued by the defendants. Consequently, I.A.No.387 of 2018 in O.S.No. 21 of 2018, on the file of the District Munsif Court at Madurantakkam stands allowed on the above lines. No costs. Consequently, connected miscellaneous petition is also closed.

10.04.2019

dua
Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order

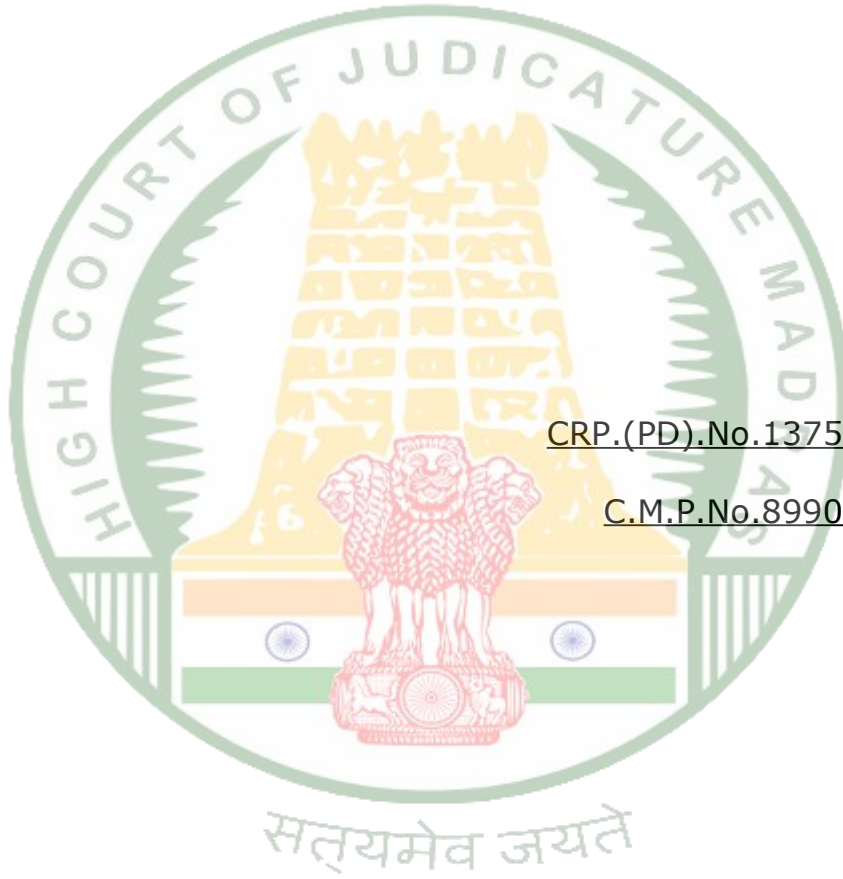
To

- 1.The learned Subordinate Judge,
Madurantakkam,
Kanchipuram District.
- 2.The learned District Munsif Court,
Madurantakkam,

Kanchipuram District.

P.T.ASHA, J.

dua



CRP.(PD).No.1375 of 2019
and
C.M.P.No.8990 of 2019

WEB COPY

10.04.2019