

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.338 of 2016

&

C.M.P.No.1782 of 2016

Khadar Shariff

...Petitioner

Vs

1.Navab John

2.Shagira

3.Mamutha

4.Shamina

5.Mumthaj

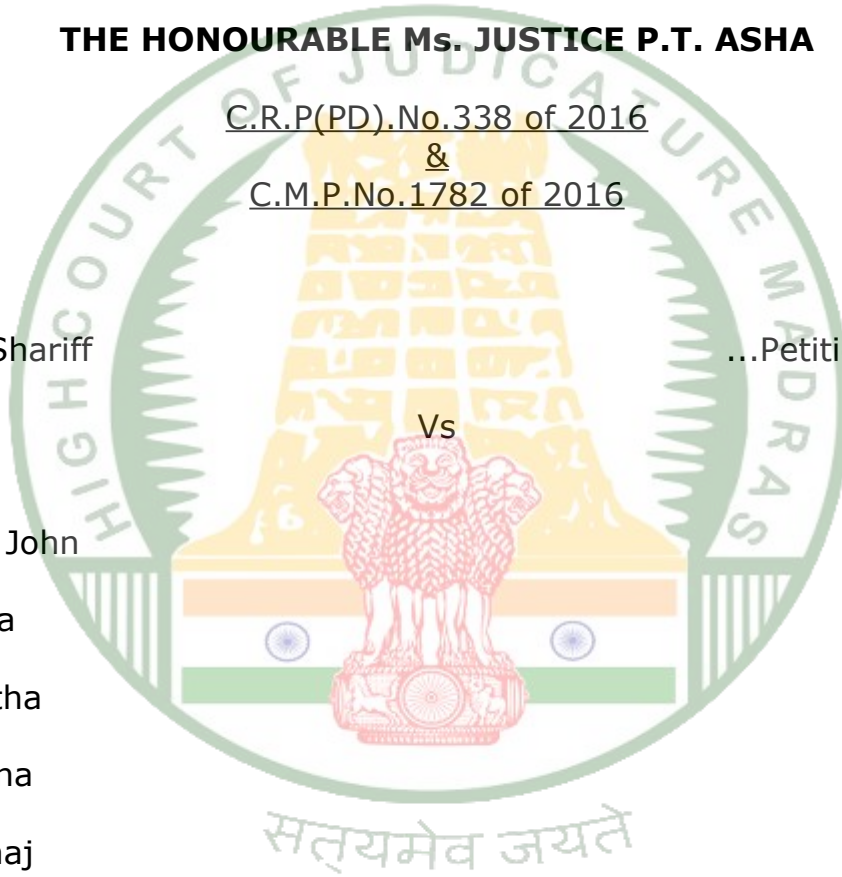
6.Mubarak

7.Parveen

8.Yashmeen

9.Noori

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India against the Judgement and Decree in C.M.A.No.No.10 of 2014 dated 25.06.2015 by the Subordinate Judge of Arani, Thiruvannamalai District setting aside the order passed in I.A.No.170 of 2014 in O.S.No.73 of 2015 dated 05.11.2014 on the file of the learned District Munsif Court, Polur.

For Petitioner : Mr.A.Kanagaraj

For Respondent 1 to 9 : Mr.S.Kumaradevan

ORDER

The above Civil Revision Petition is filed challenging the order passed by the Subordinate Judge, Arani, in C.M.A.No.10 of 2014 whereby the learned Appellate Judge has reversed the order passed by the learned District Munsif, Polur in I.A.No.170 of 2014 in O.S.No.73 of 2014 granting an ad-interim injunction in favour of the revision petitioner. It is seen that the learned District Munsif has granted an ad-interim injunction by observing as follows:

"15.It is pertinent to note that the schedule mentioned property pertains to S.No.401/1 and Door No.6A1/45. The documents filed by the petitioner such as Ex.P.6 sale deed and Ex.P.7 to Ex.P.13 being the Name Transfer proceedings and Tax payment Receipts have relevance to the schedule mentioned property. But the Revenue Records filed on behalf of the Respondent such as Ex.R.3, Ex.R.4 to Ex.R.8 pertains to S.No.401/1C. The respondents had failed to furnish details whether the property in S.No.401/1 and 401/1C are one and the same property and when the S.No.401/1 got subdivided as S.No.401/1C. Further the Respondents had pleaded that the settlement deed dated 06.12.1989 was duly acted upon and the settlee Ajira Bee had continued to be in possession and enjoyment of the suit house by paying house tax and had also obtained service connection to the suit house and she was in absolute possession and enjoyment of the suit property. It is so, then what would have prevented the Respondents from filing

the said House Tax Receipts and Electricity Payment Receipts in the name of Ajira to prove that the settlement deed was acted upon and the Respondents continued to be in possession of the Schedule mentioned property."

2.The defendant has challenged the said order by filing C.M.A.No.10 of 2014. The learned Appellate Authority without considering the above finding and without giving reasons for setting aside the same simply allowed the appeal on the ground that the settlement executed in favour of Ajirabi is a Hiba which could be revoked by the father.

3.From a reading of the order of the learned District Munsif, Polur, it is clear that the revision petitioner had made out a prima facie case for grant of order of injunction and it is also seen that the order of injunction has not been suspended pending the appeal.

In these circumstances, the order in C.M.A.No.10 of 2014 is set aside and the order in I.A.No.170 of 2014 is restored. Considering the fact that the suit is of the year 2014 the learned District Munsif, Polur is directed to dispose of the suit within a period of six months from the date of receipt of a copy of the order.

The Civil Revision Petition is allowed on the above lines. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

08.03.2019

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Index : Yes/No
Speaking order/non-speaking order

To,
1.The Subordinate Judge of Arani,
Thiruvannamalai.
2.The District Munsif Court,
Polur.

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P.T.ASHA, J.,

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