

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM :

THE HON'BLE Ms. JUSTICE P.T.ASHA

C.R.P. (PD) No.2463 of 2018

and

C.M.P. No.15043 of 2018

Chandrasekaran

... Revision Petitioner

Vs.

1.Devendran
2.Iythai
3.Murugesan
4.Shanmugam

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 22.06.2018 passed in I.A.No.302 of 2015 in O.S.No.6 of 2014 on the file of the I Additional District Munsif Court, Salem.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : No appearance for R1

: Mr.J.Prithivi for R2 to R4

ORDER

The above Civil Revision Petition has been filed, challenging the order, passed by the learned I Additional District Munsif, Salem, dismissing the

application filed by the revision petitioner/third party to implead himself as the 4th defendant in the suit.

2.The petitioner has contended in his affidavit filed in support of the impugned application that, he has a common interest, viz., half share in the suit property and that the will, which has been filed as Document No.2 in the plaint will also reveal this. The petitioner has contended that he has constructed a house in the property and residing in the same. The other averments, regarding one Mani, husband of the 2nd respondent, and the respondents 3 and 4 are all denied as false. The revision petitioner would reiterate the contents urged by the plaintiff in the plaint.

3.The 1st respondent, viz., the plaintiff would admit the averments contained in the impleading petition, however, would state that the proposed party is not a necessary party to the suit, since, even in his absence, the suit can be decided.

4.The respondents 2, 3 and 4 have filed the counter affidavit, wherein, once again, they would reiterate the contents in the written statement that, neither the plaintiff nor the proposed party has a right over the property.

5.The learned I Additional District Munsif, Salem, has dismissed the application by contending that the revision petitioner is neither a necessary nor a proper party. The learned Judge, while dismissing the application, has observed that the description of property given in the plaint and the averments contained in the affidavit filed by the proposed party do not match and there appears a lot of ambiguity in the statements of the revision petitioner in his affidavit.

6.It is this order, which is the subject matter of revision before this Court.

7.Mr.I.C.Vasudeven, learned counsel, arguing on behalf of the revision petitioner would contend that, if the plaintiff fails to contest the suit properly, his interest would be affected.

8.I am unable to accept this argument, since, both the plaintiff, as well as the revision petitioner, draw their right, title and interest to the suit property only on the basis of common documents and therefore, even in the interest of the plaintiff, he would endeavor to prove the same by filing the documents. It is always open to the revision petitioner to add to the case of the plaintiff by being examined as a witness. The affidavit filed in support of the petition for impleadment does not, in any fashion, state as to how the

revision petitioner is a proper and necessary party to the suit, except stating that he has a half share in the property and he has to contest to prove his interest over the suit property.

9.Hence, the order of the learned I Additional District Munsif, Salem, made in I.A.No.302 of 2015 in O.S.No.6 of 2014, does not suffer from any infirmity and the same is confirmed.

10.In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

06.03.2019

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Index : Yes / No

Internet : Yes / No

Speaking order / Nonspeaking order

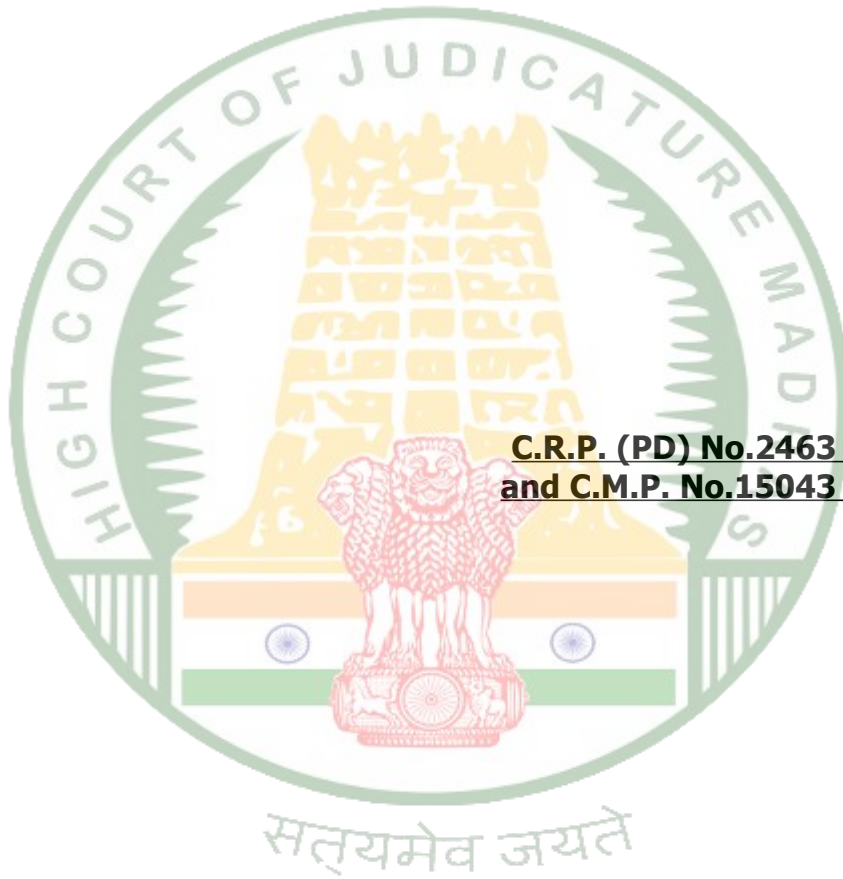
To

The I Additional District Munsif,
Salem.

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P.T.ASHA, J.

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