

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRP PD NO.963 of 2018 and
MP No.2604 of 2018 and
MP No.5177 of 2018

T.Kokila

... Revision Petitioner

Vs.

1. A.Jayanthi
2. Umayal
3. S.Rajalakshmi

4. The Manager,
HDFC Bank, No/1, Venkataraman Road,
Round Road, Mahalingapuram,
Pollachi 642 002.

5. The Manager,
IDBI Bank, Kamaraj Road,
Mahalingapuram,
Pollachi

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the order dated 18.01.2018 passed in I.A.No.829 of 2017 in O.S.No.336 of 2013 by the I Additional District Judge, Coimbatore.

For Revision Petitioner : Mr.Venkatasubban
for M/s Sarvabhauman Associates

For 1st Respondent : Mr.T.M.Naveen
for M/s K.P.Jotheeswaran

For 2nd respondent : Mr.N.Senthil Kumar

For 4th Respondent : Ms. E.Malini
for M/s Pan Associates

For 5th respondent : No appearance

Third respondent : Door locked

ORDER

The Revision Petition has been filed against the order of the trial court in I.A.No.829 of 2017 in O.S.No.336 of 2013, directing the 4th and 5th respondents herein to produce the documents sought for by the first respondent/ plaintiff, who has filed a suit for partition.

2. The revision petitioner is the first defendant in the suit in O.S.No.336 of 2013. The first respondent/plaintiff had issued a notice to the defendants No.4 and 5 to produce the bank statement of accounts with regard to the first defendant and her husband namely Thangavel. As they have not produced the said documents, the plaintiff has filed a petition before the trial court to

4. The trial court allowed the said application by its order dated 18.01.2018. Aggrieved over the said order, the present revision petitioner, the first defendant has filed this revision petition.

5. The learned counsel appearing for the revision petitioner would submit that the listed documents No.2 to 4 shown in the petition, sought to be produced by the 4th respondent are not shown in the plaint as schedule and therefore, those documents are no way relevant to the suit. He would further submit that since the suit has been filed only for partition in respect of father's estate, the said documents are not at all relevant to the subject matter of the suit. Similarly, the listed documents shown in the petition, sought to be filed by the 5th respondent are stand in the name of the mother of the plaintiff. Therefore, the above documents also not required for deciding the issue in the partition suit.

6. The learned counsel appearing for the first respondent/plaintiff would submit that admittedly the listed documents No.1 and 5 shown in the petition are shown in the schedule of the suit filed for partition and the listed documents No.2 to 4, deposit receipts are stand in the name of the father of the plaintiff and that the suit has been filed for partition of all the

properties, let by the father of the plaintiff. His further contention is that mere production of documents is no way prejudice the revision petitioner and hence, prayed for dismissal of the revision petition.

7. I have perused the orders passed by the trial court. In fact, the learned counsel for the first respondent/ plaintiff had issued a notice to the counsel for the defendants 4 and 5 to produce the deposit receipts stand in the name of Thangavel, the father of the plaintiff and in the name of Kokila (first defendant), the mother of the plaintiff. It is not in dispute that the listed documents No.1 and 5 shown in the petition are also shown in the schedule of properties in the plaint. Though the documents No.2 to 4 are not shown as schedule in the plaint, admittedly, those receipts are stand in the name of Thangavel, the father of the plaintiff. Similarly merely because those receipts are not shown in the plaint as schedule, it cannot be said that those documents are no way relevant to decide the facts in issue in the partition suit. Even assuming that those receipts have been omitted to state, the same will not debar the plaintiff to include the same by way of amendment. Hence, this court is of the view that mere production of the said documents will not prejudice the revision petitioner, since the suit is for partition in respect of the property left by the father of the plaintiff. All the properties are necessarily to be brought on

record for complete and effective partition among the parties. This court do not find any infirmity on the orders passed by the trial court.

8. In the result,

(i) The Civil Revision Petition is dismissed. No costs. The connected civil miscellaneous petitions are closed. The order of trial court is upheld.

(ii) The trial court is directed to dispose of the suit within six months, from the date of receipt of a copy of this order.

11.02.2019

Index : Yes / No
Internet : Yes / No
speaking/non speaking
mst

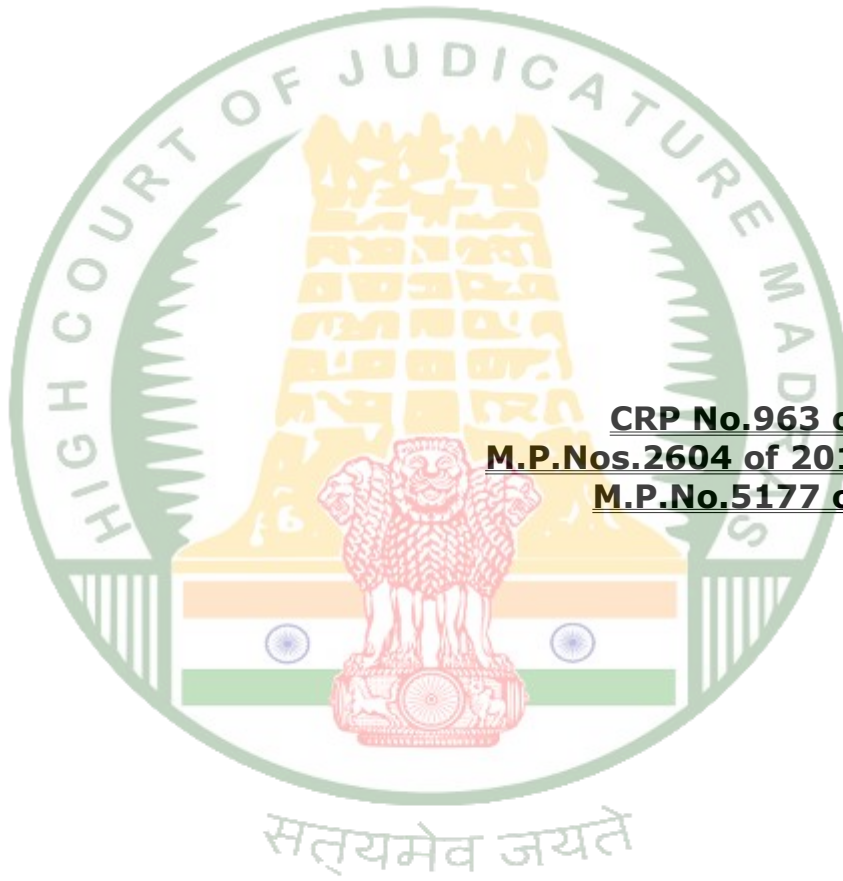
सत्यमेव जयते

To

The I Additional District Judge,
Coimbatore.

WEB COPY

N.SATHISHKUMAR, J.
mst



CRP No.963 of 2018
M.P.Nos.2604 of 2018 and
M.P.No.5177 of 2018

WEB COPY

Date: 11.02.2019

C.R.P. PD. No.963 of 2018
and C.M.P.No.2604 of 2018
and C.M.P.No.5177 of 2018

N.SATHISH KUMAR, J.

This matter has been listed today under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the petitioner.

2. Learned counsel appearing for the petitioner submits that there is a typographical error in para 8 of the order dated 11.02.2019. He submits that instead of the word "dismissed", it has been wrongly typed as "allowed".

3. Considering the submission made by the learned counsel appearing for the petitioner, the word "allowed" mentioned in para 8 of the order dated 11.02.2019 in C.R.P. No.963 of 2018 shall be substituted with the word "dismissed".

4. Except the above modification, the order of this Court dated 11.02.2019 shall remain unaltered.

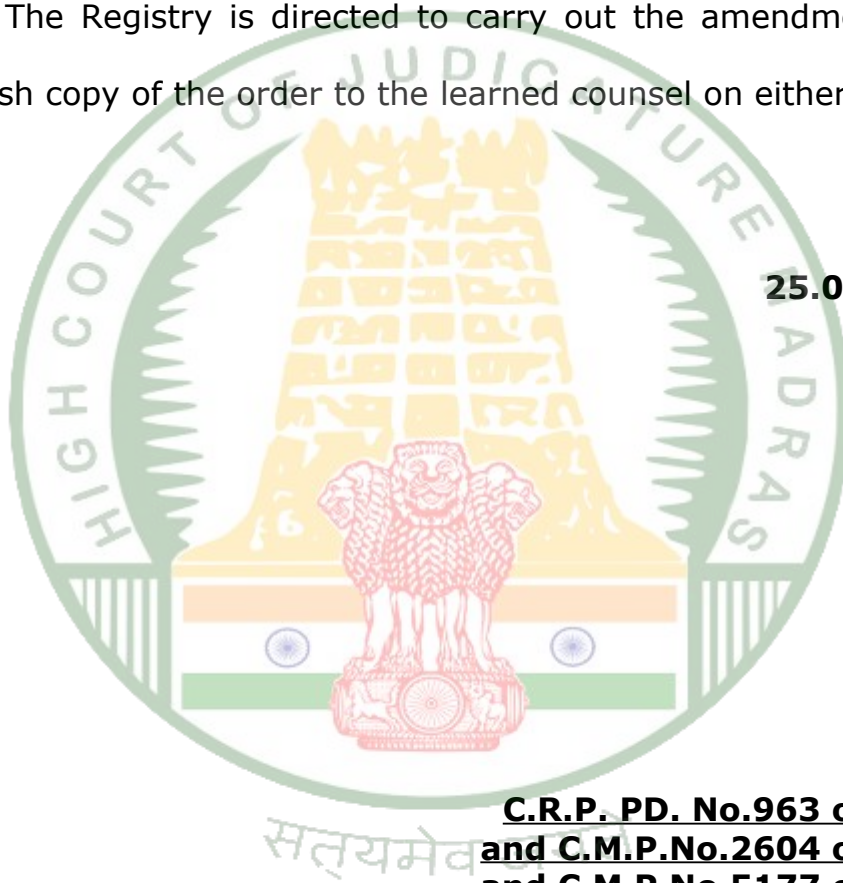
N.SATHISH KUMAR, J.

msv

5. The Registry is directed to carry out the amendment and issue fresh copy of the order to the learned counsel on either side.

25.03.2019

msv



C.R.P. PD. No.963 of 2018
and C.M.P.No.2604 of 2018
and C.M.P.No.5177 of 2018

WEB COPY