

C.R.P.No.1208 of 2014

in

M.P.No.1 of 2014

C.SARAVANAN, J.

Today, the matter is listed under the caption “for being mentioned”.

2. It is brought to the notice of this Court that some typographical error has been crept in the result portion of the order dated 12.02.2019 and same be corrected to read as follows:

"In the result, this Civil Revision Petition is disposed of. Consequently, connected M.P.is closed. No costs."

3. Registry is directed to carry out necessary correction in the order dated 12.02.2019 and issue fresh order copy to the petitioner.

सत्यमेव जयते

18.10.2019

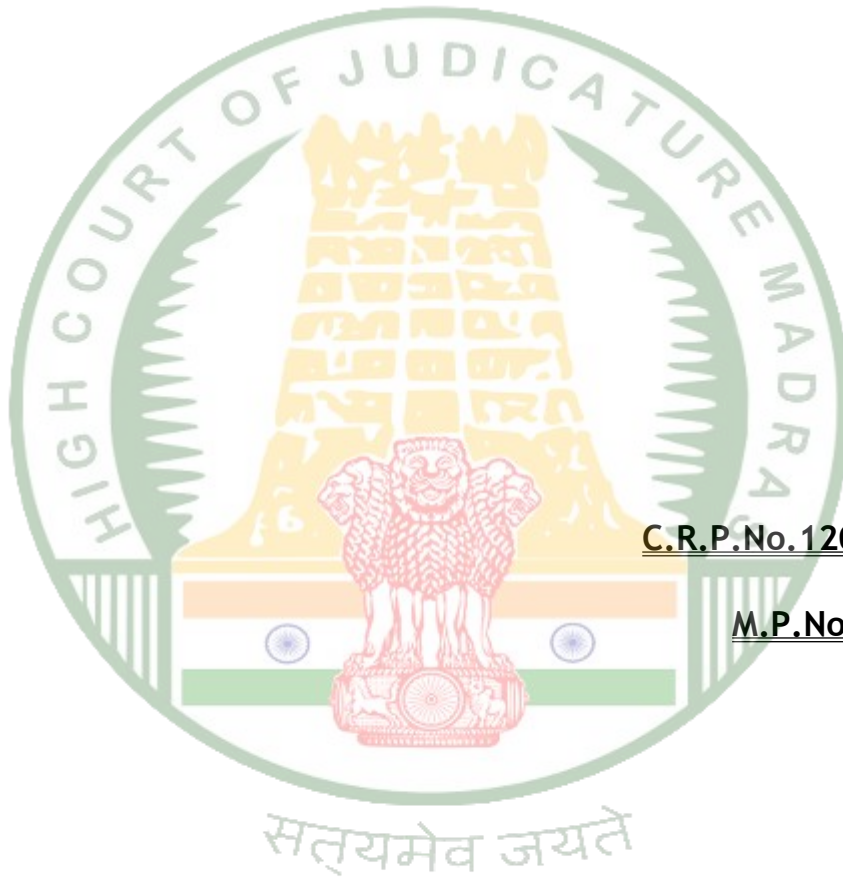
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C.R.P.No.1208 of 2014
in
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18.10.2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

C.R.P.No.1208 of 2014 and
M.P.No.1 of 2014

1. S.Rajamani

2. S.Sasikala

3. S.Senthilkumar

... Petitioners/Defendants

1. M.Amala

2. M.Anandraj

... Respondents/Plaintiffs

Prayer: Civil Revision Petition filed under Section 115 of CPC to set aside the fair and decreetal order dated 04.12.2013 in I.A.No.464 of 2012 in O.S.No.66 of 2012 on the file of the Sub-Court, Tiruchengode.

For Petitioner : Mr. S.Viswanathan

For Respondent : Mr. M.S.Palaniswamy

ORDER

This civil revision petition has been filed seeking to set aside the order dated 04.12.2013 in I.A.No.464 of 2012 in O.S.No.66 of 2012 on the file of the Sub-Court, Thiruchengode.

2 The petitioners are sisters-in-law of the respondents. The petitioners and the respondents had entered into a nominal partition deed on 07.05.2007, partitioning the scheduled property. However, within twenty days i.e., on 29.05.2007, O.S.No.78 of 2007 was filed by the respondents herein seeking for the partition of the property covered by the nominal partition deed between the parties. The petitioners were set ex parte on 28.07.2009. The petitioners herein questioned the same by demanding 1/6th share of the property. In the suit filed by the respondents herein, the address of the petitioners herein has been given as follows:

"Door No.69, S.N.D. Road, Tiruchengode Town and Taluk, Namakkal District. 2 to 4 defendants temporarily residing at Kurniji, Valappadi, Attur Taluk, Salem District."

3 It is the case of the petitioners that they were set ex parte in the said suit and that only after the receipt of the letter from the advocate for the respondents for final decree petition, they rushed to the Court. They state that in the plaint, the respondents' have

deliberately given wrong address and therefore, the suit was decreed ex parte after substituted service of suit summons was effected. The Court below has dismissed the application to condone on the ground that the delay of 958 days has not been explained properly.

4 No useful purpose will be served by disallowing the civil revision petition and thereby allow the respondents to enjoy the fruits of an ex parte decree without participation of the respondents herein as admittedly notice was effected by substituted service of suit summons after the respondents gave incorrect address in the plaint.

5 Considering the fact that both the parties are from the same family and that the suit had been filed in the year 2007, the ends of justice would be met if appropriate directions are given to the Sub-Court, Thiruchengode, to take up the partition suit and decide the case afresh.

6 Consequently, all the orders passed in O.S.No.78 of 2007 are set aside with a direction to the Sub-Court to take up the case afresh and dispose the case within a period of six months from the date of receipt of a copy of this order. The petitioners herein who are the defendants shall file their written statement, if any and participate in the suit/said proceedings. In case, any dilatory tactics are adopted

by the petitioners herein, the Court below is entitled to decide the case on merits.

C.SARAVANAN, J.

nsd

In the result, this civil revision petition is dismissed.
Consequently, connected M.P. is closed. No costs.

12.02.2019

Index: Yes / No
Speaking/Non-speaking
nsd

To

The Sub-Court,
Tiruchengode.

सत्यमेव जयते
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