

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM

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

C.R.P.(PD).No.1285 of 2014

and

M.P.No.1 of 2014

Mr.Kawarlal

... Petitioner

Vs.

1.Mr.Anbarasan

Trustee of Kadumbadiamman Koil,
Kadumbadiamman Koil Street,
Valasaravakkam, Chennai -600 087.

2.Mr.Alagarsami

3.Mr.Varadarajan

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of Constitution of India, to set aside the fair order and decreetal order dated 05.07.2012, passed in I.A.No.320 of 2012 in O.S.No.134 of 2009 on the file of Additional District Munsif Court, Poonamallee.

For Petitioner : Mr.G.Dilip Kumar

For Respondents : No appearance

ORDER

The petitioner was the plaintiff in O.S.No.134 of 2009. The said suit was filed against the respondents/defendants for a bare injunction to restrain the respondent from interfering with the peaceful possession and enjoyment of the suit schedule property measuring 3192 sq.ft.(7.327 cents).

2.The respondents/defendants filed their written statement and claimed that they perfected their title pursuant to execution of a deed of confirmation of sale vide Registered Document No.5078/2001 dated 07.11.2007.

3.It was claimed deed of confirmation of sale was executed in favour of their vendor and another document in favour of the third respondent vide Registered Document No.6693/19.12.2002 from the predecessor in title on payment consideration.

4.In the written statement it was further averred that the suit property was owned by the respondent, that they were in possession of the property and that patta was also issued in favour of them by the revenue department.

5.The petitioner therefore filed a petition seeking to amend the plaint since it was claimed that patta had been granted to the respondents as per the averments.The petitionersought to amend the plaint, by seeking to add paragraph 7-A, 7-B, 8-A, 9-A after three years of the plaint.

6.However, there is no amendment to the prayer in the relief as prayed for in the suit ,though the lower court has observed that there is a prayer to amend the plaint seeking a relief of declaration disputing the title and for the delivery of possession.

7.The defence raised by the respondent in the written statement gives raise to a triable issue before the Court. It does not invite an application to amend the plaint.

8.Therefore, the lower was justified in dismissing the application. The proposed amendment to the pleadings are something which can be decided during trial

9.I find no merits in the present Civil Revision Petition as the basis of the relief in the suit is the ownership in the property in respect of which the respondents also claims to have perfected their

title and obtained patta. These rival claims can be decided only in the Trial . Mere grant of patta by the revenue authorities cannot mean that the respondents have perfected their title.

10.It is noticed that the suit is of the year 2009 and is pending for 10 years. The lower Court is therefore directed to dispose the suit within a period of six months from the date of communication of this order.

11.Accordingly, the Civil Revision is dismissed with above observations. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

20.02.2019

Index:Yes/No

Internet :Yes/No

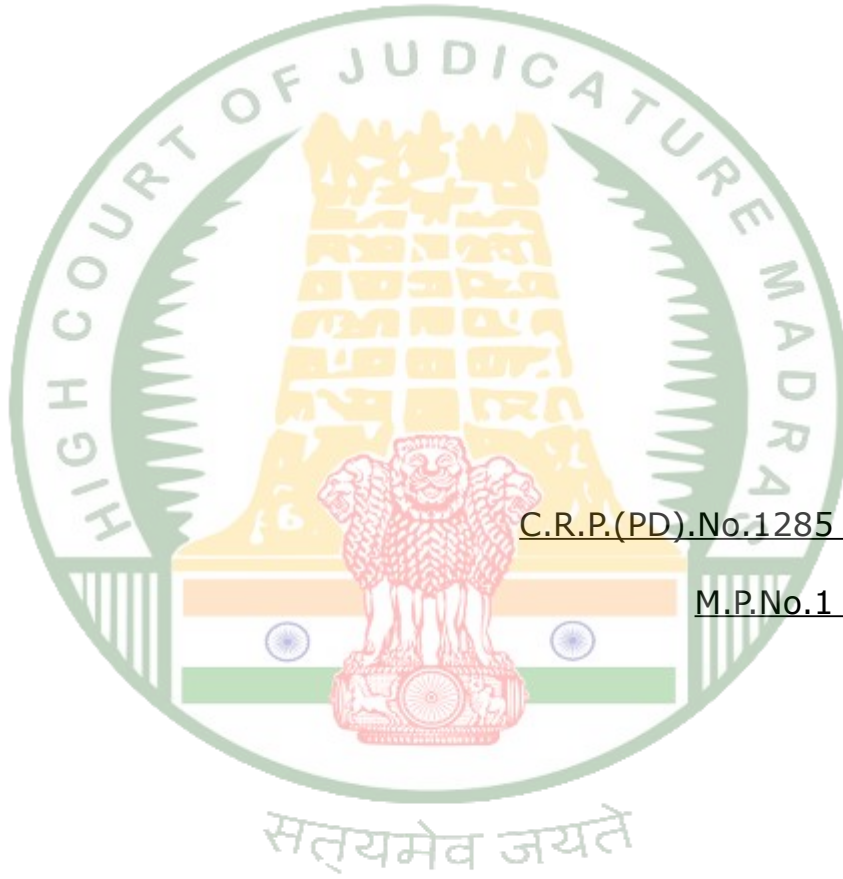
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To

Additional District Munsif Court,
Poonamallee.

C.SARAVANAN, J.

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