

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM

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

C.R.P.(PD).No.1995 of 2014
and
M.P.No.1 of 2014

Nirmala

... Petitioner

Vs.

1.Alagarasan

2.Settu

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 17.03.2014 made in I.A.No.371 of 2013 in O.S.No.16 of 2012 on the file of the Subordinate Judge, Harur.

For Petitioner : Mr.C.Munusamy

For Respondents : No appearance

ORDER

The present Civil Revision Petition has been filed against the fair and decretal order dated 17.03.2014 in I.A.No.371 of 2013 in O.S.No.16 of 2012 before the Subordinate Court, Harur.

2.The petitioner was the petitioner in I.A.No.371 of 2013 in O.S.No.16 of 2012. The said suit was filed by the 1st respondent/ agreement holder against the 2nd respondent who had allegedly entered into a sale agreement with the 2nd respondent-owner of the land.

3.The said suit was filed for specific performance, to execute sale deed in respect of the suit property as per agreement dated 15.12.2011 in favour of the 1st respondent after receiving the balance sale consideration.

4.The petitioner filed I.A.No.371 of 2013 in O.S.No.16 of 2012 and sought to implead herself as a party in the said suit on the ground that she has also had interest in the land in respect of which the relief sought for in the above suit.

5.The said application was contested by the 1st respondent/plaintiff stating that the schedule property had been partitioned long time back and that the 2nd respondent/defendant was carrying on individual business as a real estate broker. After considering the submissions of the parties, the application was dismissed on the ground that there was no merits in the application filed for impleading the petitioner.

6. Heard the learned counsel for the petitioner. There is no representation for the respondent though notice has been served on the respondents.

7. The learned counsel for the petitioner states that he is not aware the status of the suit and is unable to further get instructions from counsel who has briefed time. He is also not able to get in touch with the petitioner who briefed him at the time of filing the present Civil Revision Petition.

8. In the grounds filed in support of the present Civil Revision Petition the petitioner has stated that a suit for partition and separate possession in O.S.No.60 of 2013 has been filed in respect of the same suit schedule property and was pending before the District Court, Dharmapuri.

9. Since, the petitioner claim right in respect of the same suit schedule property in respect of she has filed O.S.No.60 of 2013 for partition, no prejudice or harm, will be caused if the petitioner was impleaded in O.S.No.16 of 2012. The learned counsel is also unable to confirm whether O.S.No.16 of 2012 is pending on date before Subordinate Court, Harur.

10. Therefore to meet the ends of justice, the petitioner is ordered to be impleaded in O.S.No.16 of 2012 as defendant provided the aforesaid suit is pending. If O.S.No.60 of 2013 is also pending before the District Court, Dharmapuri, the Subordinate Court, Harur O.S.No.16 of 2012 shall also be transferred to the District Court, Dharmapuri for joint trial.

11. In view of the same, the impugned order passed in I.A.No.371 of 2013 in O.S.No.16 of 2012 by the Subordinate Court, Harur is set aside.

12. The present Civil Revision Petition stands allowed with the above observations. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Index : Yes/No
Internet : Yes/No
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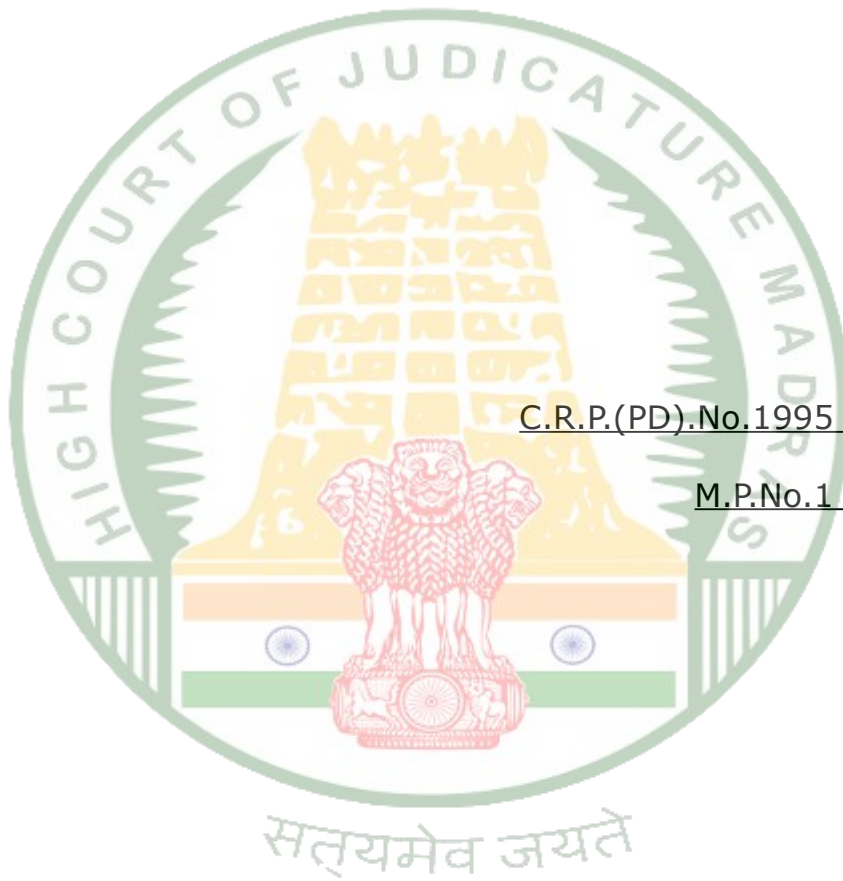
- 1.The Subordinate Court,
Harur.
- 2.The District Court,
Dharmapuri.
- 3.The Section Officer,
V.R.Section, High Court, Madras.



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C.SARAVANAN, J.

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