

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

C.R.P.(NPD).No.2317 of 2014

and

MP.No.1 of 2014

G.Ramamoorthy

... Petitioner

Vs.

1.Pappammal

2.Rani

3.Jothi

4.Jayakumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree dated 12.12.2013 passed in IA.No.885 of 2013 in IA.No.1231 of 2012 in O.S.No.381 of 2010, on the file of the Principal District Munsif Court, Tirupattur, Vellore District.

For Petitioner : Mr.PA.Sudesh Kumar

For R1 & R2 : Dismissed vide Court Order dated  
26.07.2018

For R3 & R4 : No appearance

ORDER

The present Civil Revision Petition is filed to set aside the order and decree dated 12.12.2013 in IA.No.885 of 2013 in IA.No.1231 of 2012 in O.S.No.381 of 2010, on the file of the Principal District Munsif Court, Tirupattur, Vellore District.

2. No appearance on behalf of the respondents 3 & 4.

3. The respondents 1 to 3 herein have filed the above O.S.No.381 of 2010 for partition of 1/4<sup>th</sup> share of the suit property in S.No.230 / 1A1B and the fourth respondent, who is the son of the 1<sup>st</sup> respondent, is the defendant in the suit. The same was decreed and after the preliminary decree, the respondents 1 to 3 herein have filed I.A.No.1231 of 2012 for passing the final decree. An Advocate Commissioner was appointed and the suit property has been inspected and he filed report regarding division of the property by means and bounds.

4. At this juncture, the present application has been filed by the revision petitioner under Order 1 Rule 10(2) of CPC seeking to implead himself as a party in the final decree proceedings. No document has been

filed during an enquiry in I.A. The learned Principal District Munsif considering these applications, has held that since preliminary decree is passed after ascertaining the share and entitlement of the parties thereto, and in final decree proceedings an Advocate Commissioner was also appointed and inspected the property and filed the report regarding division of the property in the final decree proceedings. The petitioner is seeking to implead himself as a party as if he has got title for the reasons best known to him, for which he has not marked any document. Patta which is filed along with this petition, though marked before the Trial Court during the enquiry in the interlocutory applications, the learned munsif has also taken note of the said patta, has held that the survey number mentioned in the patta in the unmarked document is different and distinct from the suit property in partition decree has been effected and accordingly, held that the petitioner is not entitled the relief and dismissed the application.

5. The learned counsel appearing for the revision petitioner would submit that the petitioner's mother has purchased the portion of the property from the first respondent herein and the same was not considered by the Trial Court.

6. Heard, perused records. It is seen that the sale deed was not marked before the Trial Court, not even in the impleading application. Furthermore, the patta, an unnumbered document filed before the Trial Court also stands different. The only grievance of the revision petitioner is he wants delete the property from preliminary decree of partition she wants to safeguard her property. Taking into consideration, the learned Principal District Munsif Judge held that without challenging the preliminary decree, already passed, during the final decree proceedings, the petitioner cannot be added as an party and further move the properties are different and hence on the above factual ground has dismissed the petition and the same does not call for interference and Civil Revision Petition is dismissed. It is hereby made clear that while execution of the decree, the partition of the property in Survey No.230/1A1B as mentioned in the preliminary decree alone to be executed.

7. In the result, the civil revision petition is dismissed. No costs.

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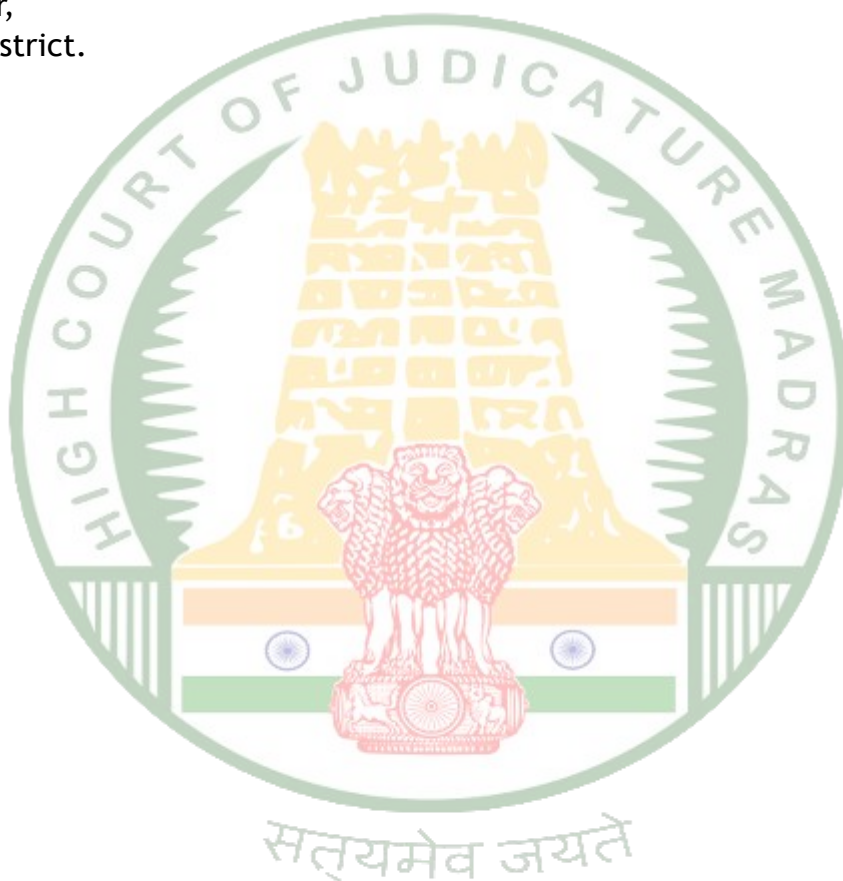
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Index: Yes/No

Speaking/non-speaking order

To

The Principal District Munsif Judge,  
Tirupattur,  
Vellore District.

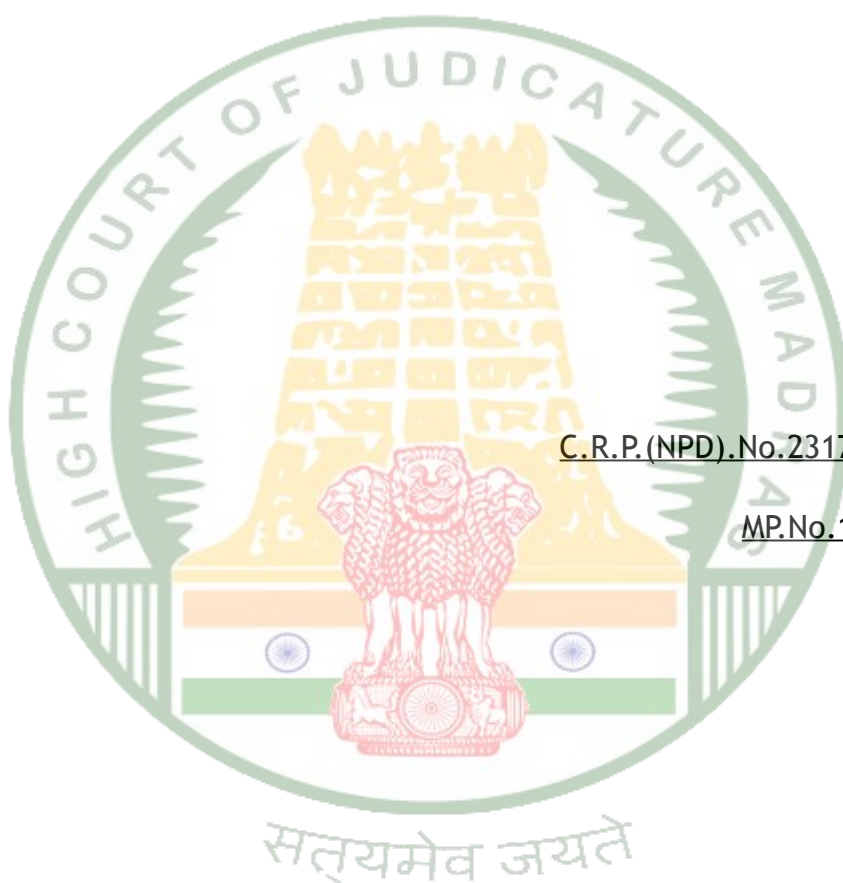


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RMT. TEEKAA RAMAN,J.

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