

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP(PD)Nos.3385 to 3387 of 2014
and M.P.No.1 of 2014
in CRP(PD)No.3385 of 2014

Sivaraj

...Petitioner in all CRPs

Vs

1.Ameertharaj

2.Palani Mudaliyar

3.Sivalingam

4.Povunammal

5.The Tahsildar,
Taluk Office,
Vandavasi.

... Respondents in all CRPs

(The respondents 2 to 5 are not necessary parties and no relief is claimed against them and hence given up)

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, against the fair and decretal orders passed in I.A.No.315 of 2014, I.A.No.316 of 2014 and I.A.No.317 of 2014 in O.S.No.284 of 2008 respectively, on the file of the Additional District Munsif, Vandavasi, dated 5.8.2014.

For Petitioner in all CRPs	: Mr.A.E.Ravi Chandran
For Respondents in all CRPs	: Mr.S.Baskaran for R1
	R2 to R5 Given up

COMMON ORDER

These Civil Revision Petitions have been filed under Article 227 of the Constitution of India, challenging the common order dated 05.08.2014, passed by the Additional District Munsif, Vandavasi in I.A.Nos.315, 316 and 317 of 2014 in O.S.No.284 of 2008.

Brief facts leading to the filing of the instant revision:

2.The petitioner is the second defendant in the suit O.S.No.284 of 2008 filed by the first respondent/plaintiff. The suit was filed by the first respondent/plaintiff for bare injunction restraining the petitioner and other defendants from interfering with the peaceful possession and enjoyment of the suit schedule property and also for other reliefs. A written statement has also filed by the petitioner as well as the other defendants in the suit. While arguments were being heard by the trial Court in part, the first respondent/plaintiff filed I.A.Nos.315, 316 and 317 of 2014 in O.S.No.284 of 2008, seeking for the following reliefs:

(a)I.A.No.315 of 2014 for reopening the evidence on the side of the plaintiff

(b)I.A.No.316 of 2014 for recalling PW1.

(c)I.A.No.317 of 2014 for marking two additional documents, namely plaint in O.S.No.24 of 2014 filed by the first respondent/plaintiff and patta in the name of Ponnusamy Mudhaliyar.

3.It is the case of the first respondent/plaintiff that the documents proposed to be marked as exhibits are essential for the purpose of proving his case. A counter affidavit has also filed by the first respondent/plaintiff stating that the applications filed by the first respondent/plaintiff is a clear abuse of process of law.

4.According to the petitioner, the first respondent/plaintiff earlier filed I.A.No.553 of 2013 under Order 6 Rule 17 CPC, seeking for amendment of plaint which was dismissed and the same was also confirmed by this Court in CRP(PD)No.1077 of 2014 by an order dated 09.06.2014. Only to fillup the lacuna in the suit, I.A.Nos.315, 316 and 317 of 2014 have been filed by the petitioners/defendants.

5.It is also their case having failed in his attempt to amend the plaint under Order 6 Rule 17 CPC, the petitioner has once again filed I.A.Nos.315, 316 and 317 of 2014 in O.S.No.284 of 2008 only to indirectly seek the same relief as sought for in the earlier application, namely, I.A.No.553 of 2013 which was dismissed by the trial Court and confirmed by this Court.

6.By a common order dated 05.08.2014, I.A.Nos.315, 316 and 317 of 2014 were allowed by the trial Court for the reason that even

though the petitions were filed at the fag end of arguments stage and only in order to render substantial justice and to avoid multiplicity or proceedings.

7. Aggrieved by the order dated 05.08.2014, passed in I.A.Nos.315, 316 and 317 of 2014, these Civil Revision Petitions have been filed.

8. Heard, Mr.A.E.Ravi Chandran, learned counsel for the petitioner and Mr.S.Baskaran, learned counsel for the first respondent.

9. The learned counsel for the petitioner submitted the first respondent/plaintiff is lone contesting party and all other respondents have already been given up and as far as the remaining respondents are concerned, there is no necessity for this Court to hear them.

10. Admittedly, the suit O.S.No.284 of 2008 has been filed by the first respondent/plaintiff for a bare injunction restraining the petitioner from interfering with the peaceful possession and enjoyment of the suit schedule property and also for other reliefs.

11.It is the case of the petitioner that I.A.Nos.315, 316 and 317 of 2014 filed by the first respondent/plaintiff is a clear abuse of process of law. According to the petitioner/2nd defendant earlier an application was filed by the first respondent/plaintiff namely, I.A.No.533 of 2013 under Order 6 Rule 17 CPC, seeking to amend the plaint to include the relief of declaration of title which was dismissed by the trial Court and the same was also confirmed by this Court in CRP(PD)No.1077 of 2014.

12.This being the case, according to him, the applications namely, I.A.Nos.315, 316, 317 of 2014 filed by the first respondent/plaintiff.

(a)I.A.No.315 of 2014 for reopening the evidence on the side of the plaintiff

(b)I.A.No.316 of 2014 for recalling the PW1.

(c)I.A.No.317 of 2014 for marking two additional documents, namely plaint in O.S.No.24 of 2014 filed by the first respondent/plaintiff and patta in the name of Ponnusamy Mudhaliyar are not maintainable and is a clear abuse of process of law.

13.This fact has been considered by the trial Court while allowing I.A.Nos.315, 316 and 317 of 2014 and the trial Court has also

observed in the impugned common order that the said petitions were filed at the fag end of arguments stage and only in order to render substantial justice and to avoid multiplicity of proceedings, the trial Court is allowing the application.

14.The instant Civil Revision Petitions have been filed in the year 2014 and because of the pendency of these Civil Revision Petitions, the suit is still kept pending.

15.This Court is of the considered view that without going into merits of the matter and without deciding as to whether the impugned common order passed by the trial Court is correct or not in the interest of justice, direction can be given by this Court to dispose of the suit within a time frame to be fixed by this Court.

16.In the result, the impugned order of the trial Court is hereby confirmed, however, without prejudice to the rights of both the parties to the suit to agitate their respective rights in the said suit. A direction is also given to the trial Court to dispose of the suit within a period of one month from the date of receipt of a copy of this order.

17. With the aforesaid directions, these Civil Revision Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

16.07.2019

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Index: Yes/ No

Internet: Yes/No

Speaking Order/Non-speaking Order

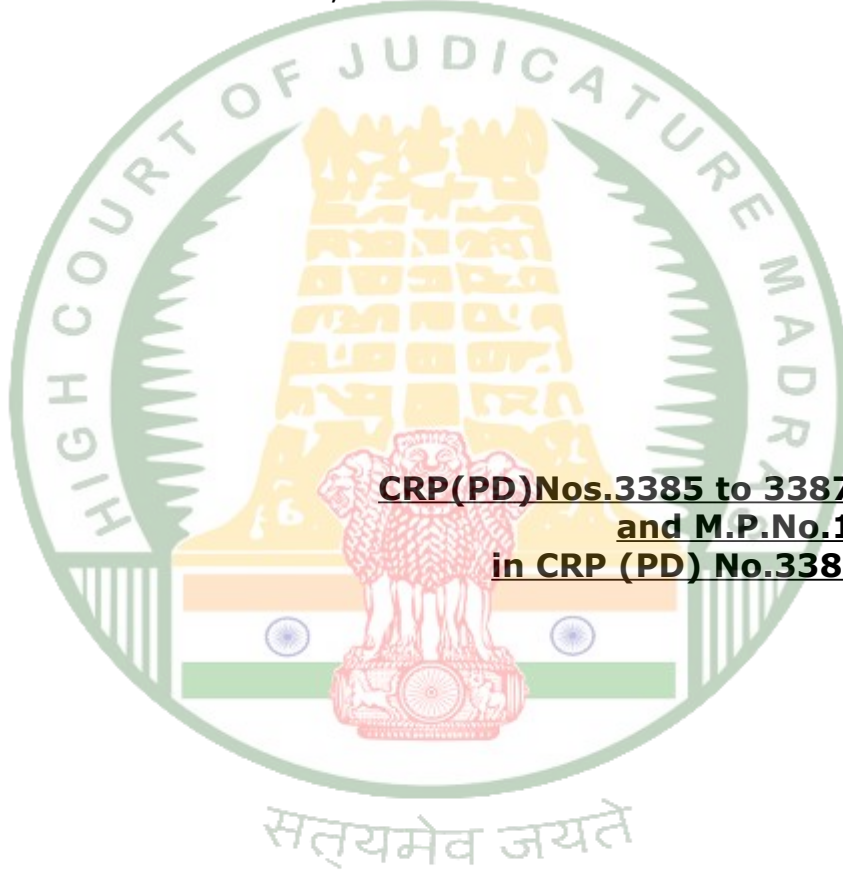


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ABDUL QUDDHOSE, J.

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To
The Additional District Munsif, Vandavasi.



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and M.P.No.1 of 2014
in CRP (PD) No.3385 of 2014

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