

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD)No.3007 of 2019 and  
C.M.P.No.19410 of 2019

R.Subbian

... Petitioner

Vs.

Sri.Balaji Theatre Pvt. Ltd.,  
By its Managing Director: Mr.T.V.Selvarajan  
S/o.Velappa Naidu,  
No.1/254, Thudialur Main Road,  
Chinna Thadagam Pudur,  
Thadagam Via,  
Coimbatore.

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 27.02.2019 passed in I.A.No.12 of 2018 in O.S.No.1238 of 2010 on the file of V Additional District Munsif Judge, Coimbatore.

For Petitioner : Mr.K.Myilsamy  
For Respondent : Dr.T.Ramasamy  
For Caveator

**WEB ORDER COPY**

This revision petition has been filed against the fair and decretal order dated 27.02.2019 made in I.A.No.12 of 2018 in O.S.No.1238 of 2010 on the file of the V Additional District Munsif Judge, Coimbatore.

2.The said application was filed by the 1<sup>st</sup> defendant in the suit under Order 11 Rule 12 and 14 of the Civil Procedure Code whereby a prayer has been sought for to give a direction to the respondent/ plaintiff to produce the original sale deed dated 04.05.1945 for comparing the thumb impression of one Rangammal with the thumb impression in the sale deed dated 25.06.1969.

3.Since the said I.A. has been dismissed on merits by the Court below, challenging the same, the present revision has been filed.

4.I have heard the learned counsel for the petitioner as well as the learned counsel for the respondent, who entered through the Caveat.

5.I have gone through the impugned order, where, the learned Judge has recorded that, the said Rangammal, who has executed the sale deed dated 25.06.1969, is an illiterate and insofar as the document dated 04.05.1945 is concerned, in respect of the property at Survey No.680/3, as per sale deed dated 16.08.1937, the erstwhile owners one Chinnammal and one Rangae Gowder conveyed the property to one Kulandammal. Subsequently, the property has been

transferred and thereafter, several transactions had been taken place and one such transaction was under the sale deed dated 04.05.1945 and ultimately, the property claimed to have been purchased by the plaintiff and before the Court below, the plaintiff had taken a stand that the said document dated 04.05.1945, i.e. the original of the same has not been available with the plaintiff and the said statement has been recorded by the Court below.

6. When the plaintiff himself declared that one of the mother document i.e. sale deed dated 04.05.1945 with the original is not available with the plaintiff, it is thoroughly impossible to compel the plaintiff to produce the same. However, the plaintiff had agreed to produce the certified copy of the said document in order to show that, there had been a transaction in respect of the property in question on 04.05.1945. Mere filing of a certified copy of the sale deed dated 04.05.1945 will not confer the title on the plaintiff as the same has to be proved by the plaintiff otherwise, as to how he got the property and through which document. These are all the matters to be decided by the trial Court and therefore, in that context, requiring the plaintiff to produce the original document dated 04.05.1945, despite the declaration having been made by the plaintiff that, the document in

original is not available with him, is totally alien to the issue to be decided in the suit and therefore, the learned Judge, after having gone through these aspects and recording the said factors, has dismissed the said I.A.

7.After having gone through the impugned order, this Court is of the firm view that, there is no infirmity or perversity attached with the said order which is impugned herein and hence, this Court feels that no interference is required under the revisional jurisdiction of this Court in the said impugned order. Accordingly, the Civil Revision Petition fails and hence, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.09.2019

Sgl

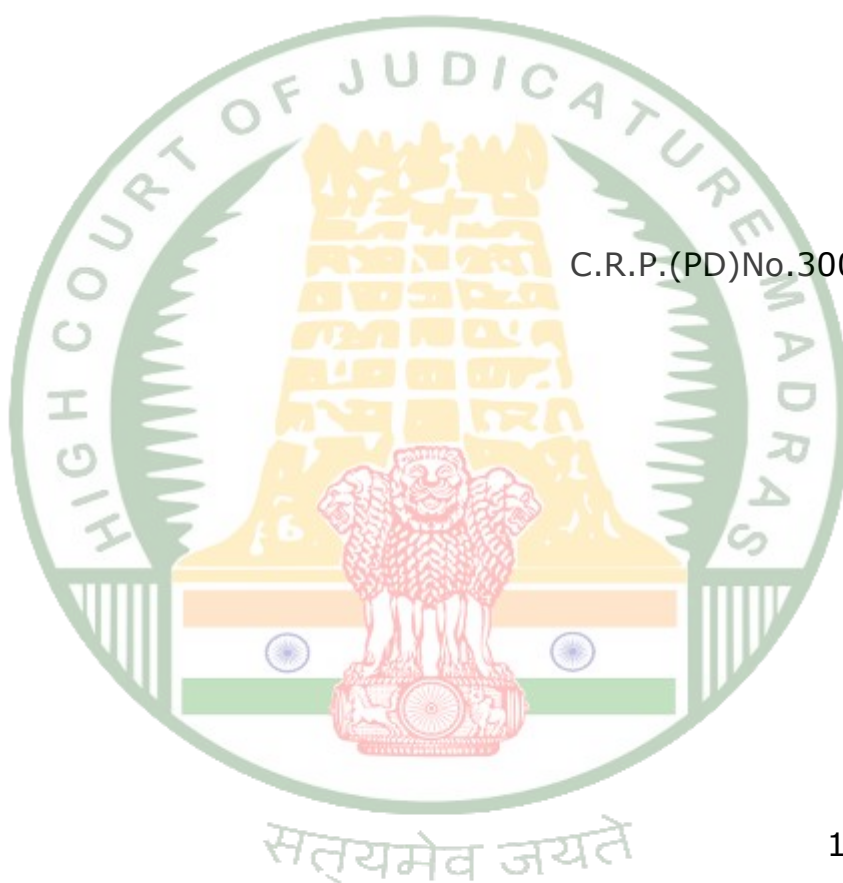
To  
The V Additional District Munsif Judge,  
Coimbatore.

सत्यमेव जयते  
WEB COPY

C.R.P.(PD)No.3007 of 2019

R.SURESH KUMAR, J.

Sgl



C.R.P.(PD)No.3007 of 2019

12.09.2019

WEB COPY